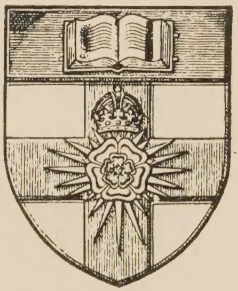

UNIVERSITY OF LONDON
LIBRARY

SHL
WITHDRAWN

THE

SURVEYORS' INSTITUTION

(*Incorporated by Royal Charter*),

12, GREAT GEORGE STREET, WESTMINSTER, S.W.

PATRON:

HIS MAJESTY KING GEORGE V.

TRANSACTIONS.

VOL. LV.

SESSION 1922-1923.

BIBL. LONDIN. UNIV.

LONDON:

PUBLISHED AT THE INSTITUTION,

12, GREAT GEORGE STREET, WESTMINSTER, S.W. 1.

ENTERED AT STATIONERS' HALL.

All Rights of Translation and Reproduction reserved.

NOTICE.

The Institution does not, as a body, hold itself responsible for statements made or opinions expressed either in the Papers read or the discussions which have occurred at the Meetings.

CONTENTS OF VOL. LV.

Page.	—	No. of Paper.	Author of Paper.	Date.
i	Title-page of Vol. LV.			
v	List of Officers for 1922-1923.			
				1922.
1	Opening Address	470	J. McClare Clark	Nov. 13
32	Food Production during the War	471	E. Meacher	Dec. 11
47	Agricultural Position and the Possibility of Stimulating Economic Production in the Future	472	Harry German	Dec. 11
55	Discussion on Papers Nos. 471 and 472	—	... ...	Dec. 11
				1923.
76	Zoning in the Control of Large Cities	473	Frank Hunt, C.V.O.	Jan. 8
97	Discussion on Paper No. 473 ...	—	... ...	Jan. 8
126	The Law of Property Act, 1922	474	C. P. Sanger	Feb. 12
141	Discussion on Paper No. 474 ...	—	... ...	Feb. 12
167	The Re-valuation of Landlords' Property Tax—Schedule A	475	C. Gerald Eve	Mar. 12
187	Discussion on Paper No. 475 ...	—	... ...	Mar. 12
213	Discussion on the Report of the Rent Restrictions Act Committee	—	... ...	April 9
240	Some Functions of a Surveyor under the Settled Land Acts, and Part II. Law of Property Act	476	C. Herbert Bedells	May 7
271	Discussion on Paper No. 476 ...	—	... ...	May 7
293	Annual General Meeting for the Election of Officers for 1922-23. Report of Council. Accounts, 1922. List of Donations and Contributions to the Library.	...	... ...	May 28

Digitized by the Internet Archive
in 2026

https://archive.org/details/chartered-surveyor_1922-1923_55

OFFICERS, 1922-1923.

COUNCIL.

President.

JOHN MCCLARE CLARK (Northumberland)

Vice-Presidents.

JAMES INGLIS DAVIDSON (Scotland)
SIR EDWIN SAVILL, O.B.E. (London)
JOHN DAVID WALLIS (Lancashire)
DENDY WATNEY (London)

Members of Council.

CHARLES HERBERT BEDELLS (London)
JOHN EVANS BIDWELL (Cambs)
FRANK JOHN BROWN (Herts)
GEORGE TURVILLE BROWN (London)
HERBERT MANSFIELD COBB, C.B.E. (Kent)
GEORGE CORDEROY (London)
EDWARD SAMUEL COX (Yorks)
ARTHUR GEORGE CROSS (London)
CHARLES DICKINSON (Ireland)
CHARLES GERALD EVE (London)
WILLIAM HAROLD EVE (London)
CHARLES BROWNING FISHER, C.B.E. (Leicestershire)
HARRY FRANKS (Ireland)
CHARLES HENRY GOTT (Yorks)
WILLIAM TIMOTHY HALL (Salop)
FREDERICK HENRY APPLETON HARDCASTLE (London)
SIR EDGAR JOSIAH HARPER (London)
HENRY HARTLEY (Lancs)
FRANK WILLIAM HUNT, C.V.O. (London)
BERNARD MARR JOHNSON (London)
WALTER LAWRANCE (London)
ERNEST HOLTHAM LEEDER (Glamorgan)
JOHN CAMPBELL MURRAY (Scotland)
HENRY BURROUGHES NAPIER (Glos.)
GEORGE FREDERICK PAGE (Surrey)
REGINALD HENRY POWELL (Sussex)
ERNEST ALFRED RAWLENCE (Wiltshire)
EDMUND WALTER RUSHWORTH (London)
JAMES AUGUSTINE RUTHERFORD (Berks)
HENRY EDWARD SHERWIN (London)
GEORGE COBLEY SMYTH-RICHARDS, O.B.E. (Devon)
CHARLES JOHN HOWELL THOMAS (London)
PERCIVAL FOX TUCKETT (London)
HARRY JOHN CAMPION WINTERTON (Staffs)

Professional Associates of Council.

CHRISTOPHER TURTILL FULCHER (London)
STANLEY VVYVIAN HICKS (London)
SYDNEY MAGER, C.B.E. (London)
JOHN MAUGHAN (Yorkshire)

Associates of Council.

GEORGE MALLOWS FREEMAN, K.C.
RICHARD FUGE GRANTHAM

Past-Presidents (*Ex-officio Members of Council*).

DANIEL WATNEY (London)
ARTHUR VERNON (Bucks)
CHARLES BIDWELL (Cambs)
HOWARD MARTIN (London)
SIR ALEXANDER ROSE STENNING (London)
LESLIE ROBERT VIGERS (London)
W. EDGAR HORNE, M P. (London)
THE HON. EDWARD GERALD STRUTT, C.H. (London and Essex)
JOHN HENRY HANSON (Yorks)
RT. HON. GEORGE FRANCIS STEWART (Ireland)
ARTHUR LYON RYDE (London)
SIR JOHN HUBERT OAKLEY (London)
JOHN WILLMOT (Warwickshire)

Honorary Secretary.

ARTHUR NORMAN GARRARD.

Secretary.

ALEXANDER GODDARD, C.B.E.

List of Standing Committees.

AGRICULTURAL.
BUILDING.
COUNCIL SELECTION.
COUNTY BRANCHES AND COUNTRY MEETINGS.
EDUCATION.
ELECTIONS.
FINANCE.
FORESTRY.
GENERAL PURPOSES.
LIBRARY AND SESSIONAL PAPERS.
MINING.
PARLIAMENTARY.
PROFESSIONAL PRACTICE.
QUANTITY SURVEYORS.

Past-Presidents.

1868 *John Clutton*
1870 *Richard Hall*
1872 *Edward Norton Clifton*
1874 *Thomas Huskinson*
1876 *Edmund James Smith*
1878 *William Sturge*
1880 *Edward Ryde*
1883 *Thomas Smith-Woolley*
1885 *Edward I'Anson*
1886 *William James Beadel, M.P.*
1888 *Elias Pitts Squarey*
1890 *Robert Collier Driver*
1892 *Charles John Shoppee*
1894 *Thomas Chatfeild Clarke*
1895 DANIEL WATNEY
1897 *Christopher Oakley*
1898 *Robert Vigers*
1899 *Thomas Miller Rickman*
1900 *John Shaw*
1901 *Sir John F. L. Rolleston*
1902 ARTHUR VERNON
1903 *Albert Buck*
1904 *Herbert Thomas Steward*
1905 *Charles Bidwell*
1906 *George Langridge*
1907 *Thomas Taylor Wainwright*
1908 HOWARD MARTIN
1909 SIR ALEXANDER ROSE STENNING
1910 LESLIE ROBERT VIGERS
1911 W. EDGAR HORNE, M.P.
1912 HON. EDWARD GERALD STRUTT
1913 *W. Edward Woolley*
1914 *Howard Chatfeild Clarke*
1915 JOHN HENRY HANSON
1916 GEORGE FRANCIS STEWART
1917 ARTHUR LYON RYDE
1918 SIR JOHN HUBERT OAKLEY
1919 *Andrew Young*
1920 JOHN WILLMOT
1921 *Joseph Henry Sabin*
1922 JOHN MCCLARE CLARK

(The names of those deceased are printed in italics.)

CHARLES BIDWELL

President

1905—6.

VOL. LV. PART I.

TRANSACTIONS
OF
The Surveyors' Institution.

SESSION 1922-1923.

PAPER 470.

THE OPENING ADDRESS.

By J. McClare Clark (President).

Read at the Ordinary General Meeting of The Surveyors' Institution, 13th November, 1922.

If, at the opening of my Address, I follow precedent in thanking members for the great honour they have done me in placing me in this Chair, my doing so is no formal acknowledgment. I feel very deeply the responsibility of my position, and while I thoroughly appreciate the personal distinction attaching to my election, I recognise that it is one which I share with my colleagues in the north of England. The selection of a President from among their number has, I am assured on all hands, been received with real gratification by members in the northern counties, as indicating that the professional knowledge and methods obtaining there do not compare unfavourably with those to be found nearer the heart-centre of The Institution.

I can only add that it is my earnest desire to follow in the steps of the many able and eminent men who have preceded me, and who were at one in placing the honour and interest of their profession and The Institution before any advantage or convenience of their own. While recognising my deficiencies, I shall endeavour to the utmost of

my ability to uphold the reputation of this Chair established by those who have occupied it before me.

Much of immediate concern to members of The Institution has taken place since the late Mr. J. H. Sabin stood here twelve months ago to deliver his Opening Address. He himself has left us, and the shock of his unexpected death during his year of office seemed at the time distressing and tragic in its suddenness. I am not sure, however, he would have wished it otherwise. For upwards of thirty years he had given ungrudgingly of his best to The Institution, he had attained what he looked upon as the culminating point of his professional career, and he went straight from the work here to which he had devoted himself, leaving us an undimmed memory as an ideal at which to aim.

While it is difficult accurately to foretell precisely the effect of changes in constitution, it is possible that future generations of surveyors may look back to The Institution year 1921-22 as one of the most important in its history. Twelve months ago His Majesty George V., the Patron of our society, gave further evidence of his gracious interest in The Institution by the grant of the Supplemental Charter for which we had petitioned, and by the end of the year the amended By-laws based thereon had been allowed by the Lords of the Privy Council. Under these, as you are aware, the Council is enlarged, and far greater responsibility for its selection is placed upon the individual member. The County Branches, who were made the channel through which effect was given to the views of the individual member, showed a keen interest in their new duties, and the first Council to be elected under the amended By-laws came into office at the end of May last. We can hardly hope that the Council of the future will prove superior in *personnel* and devotion to duty to those elected under the old system, but I have every confidence that they will emulate the attributes of their predecessors, while the new method should, I think, prove superior to the old in widening the interest of members in the work of The Institution and in adding to their sense of responsibility.

With the grant of the new Charter, and the sanctioning

of the amended By-laws, the amalgamation of the Quantity Surveyors' Association with The Institution became possible. This took place at the beginning of the year, and I should like to take this opportunity of welcoming the members of the Association to our old-established body, and to say how confident I feel that the union of the two societies will prove a strength to their particular branch of the profession.

Two other matters I should like to mention before proceeding with the main subject of my Address: I refer to the College of Estate Management and Registration.

With regard to the former, education has always been one of the principal objects of The Institution. It was with the object of raising the standard of professional attainment in this respect that more than forty years ago our system of examinations was originally founded, The Institution being the first professional body to make membership dependent upon a strict examination test. Later The Institution scholarships, tenable at recognised universities, were established. It was obvious, therefore, that when Sir William Wells launched his scheme for a college of estate management, The Institution would be keenly interested, and I am glad to say that the negotiations between the Auctioneers' and Estate Agents' Institute and ourselves, which were carried on in a most friendly and disinterested manner, have resulted in the two bodies co-operating mutually in the furtherance of the project. As a result of a petition to His Majesty a Royal Charter has been granted to the newly founded College, under which The Institution and the Auctioneers' and Estate Agents' Institute are equally represented on the Board of Governors. The number of students who have already entered is satisfactory, and the prospects of a useful and successful career for the College are exceedingly bright.

On the subject of registration I have at present little to say, as that is a matter for the future rather than of the past. Members, however, are keenly interested, and I may, therefore, be permitted to tell them that the three Societies concerned—ourselves, the Auctioneers, and the Land Agents—are co-operating in a most harmonious manner, that a Bill

is already in draft, and that we hope an effort may be made to obtain legislative sanction thereto during the coming Session of Parliament.

Turning now to less domestic matters, a President must always experience some difficulty in deciding upon the subject which may seem most appropriate for his Opening Address. My own practice covers both rural and urban matters, and subjects such as the Rent Restriction Acts, the reassessments for Schedule A purposes, the return of property to private ownership after war uses, might seem opportune for discussion. There is one topic, however, which is, I consider, of even greater national interest. I refer to the position of agriculture in our effort to free ourselves from war conditions. I propose shortly to discuss this with you this evening, and to endeavour to arrive at some conclusion as to whether the precedent of last century at the close of the Napoleonic wars may not throw some light upon our present problems.

There are many points in common between the position which faces us to-day and that with which agriculturists were confronted a hundred years ago. Then, as now, the country had emerged victoriously from a great war, which, however, had taxed the resources of the nation to the utmost, and had multiplied exceedingly the burden of national indebtedness.

It is estimated that in the struggle against Napoleon, approximately one out of every six able-bodied men—out of a population of about 10,000,000—was engaged. In the recent war, out of a population of 42,000,000, something like 6,000,000 joined the colours, and in addition many millions of others were employed on work immediately connected with the prosecution of the war. In each case the agriculturist found himself called upon to maintain or increase his production with a depleted and deteriorated supply of labour and farm necessaries; in each case, stimulated by the country's need and by the prospect of a substantial financial return, the difficulties were resolutely overcome. In each case the farmer might be forgiven if he looked back with some pride on his share in winning the

war, and with satisfaction on its effect upon his bank balance.

Prosperity based on war conditions, however, has been proved to have no solid foundation. Then, as now, its fictitious nature soon became apparent. In thirty years' time the National Debt had increased threefold, from £260,000,000 sterling to £780,000,000. Our own debt has been subject to an even greater increase, having sprung from £650,000,000 in 1914 to £7,800,000,000 in 1921. A corresponding increase occurred in local rates, the burden of which fell with special weight on the occupiers of agricultural land. We have suffered a similar experience since the last war. The total amount raised in rates, 1913-14, was £71,250,000 sterling, involving an average rate of 6*s.* 8¾*d.*; the total raised in 1921-22 was £173,000,000, the average rate being 14*s.* 9½*d.*, in spite of considerable increases in the assessments of property for rating purposes. During each war, also, wages had advanced to meet the increase in the cost of living, and the cost of all farming requirements was correspondingly affected. Unless, therefore, the prices of farm produce were maintained at a level sufficient to meet the increased expenses, a period of more or less acute depression in each case became inevitable.

It must be remembered that in the early part of last century the United Kingdom was practically self-supporting in the production of bread, meat, and milk. Although as years passed and the industrial population grew the imports of wheat gradually assumed greater proportions, it was not until the application of steam to ocean traffic that the natural protection to the home supply afforded by our island position disappeared, and our farmers were called upon to face unaided competition from virgin soils unhampered by financial burdens. In spite of this a great break in prices took place after the Napoleonic wars. The average price of wheat, which had stood at 109*s.* in 1813, dropped to 96*s.* 11*d.* in 1817, and 44*s.* 7*d.* in 1822, while the variations during the year were still more marked. The following table, kindly supplied by Mr. R. J. Thompson, of the Ministry of Agricul-

ture, shows the average prices (so far as they are available) of the principal farm products since 1800:—

Year.	Wheat* per qr.	Barley* per qr.	Oats* per qr.	Beef† per lb.	Mutton† per lb.	Wool‡ per lb.
	s. d.	*s. d.*	*s. d.*	*d. d.*	*d. d.*	*d.*
1800 ...	113 10	59 10	39 4	—	—	—
1810 ...	106 5	48 1	28 7	—	—	—
1820 ...	67 10	33 10	24 2	—	—	—
1830 ...	64 3	32 7	24 5	—	—	9
1850 ...	40 3	23 5	16 5	—	—	11
1860 ...	53 3	36 7	24 5	—	—	$20\frac{1}{8}$
1870 ...	46 11	34 7	22 10	$4\frac{5}{8}$ to $7\frac{1}{8}$	$5\frac{1}{4}$ to $7\frac{5}{8}$	$16\frac{3}{4}$
1880 ...	44 4	33 1	23 1	$4\frac{3}{8}$ „ $7\frac{3}{4}$	$4\frac{7}{8}$ „ $8\frac{3}{4}$	$15\frac{1}{8}$
1890 ...	31 11	28 8	18 7	$3\frac{5}{8}$ „ $6\frac{5}{8}$	$3\frac{1}{2}$ „ 8	11
1900 ...	26 11	24 11	17 7	$3\frac{7}{8}$ „ $6\frac{1}{4}$	$3\frac{1}{4}$ „ $7\frac{5}{8}$	$7\frac{7}{8}$
1910 ...	31 8	23 1	17 4	$3\frac{1}{2}$ „ $6\frac{5}{8}$	$3\frac{1}{4}$ „ $7\frac{5}{8}$	$9\frac{3}{4}$
1914 ...	34 11	27 2	20 11	$3\frac{3}{8}$ „ $6\frac{7}{8}$	4 „ $8\frac{1}{4}$	$12\frac{3}{4}$
1920 ...	80 10	89 5	56 10	$9\frac{1}{4}$ „ 16	$8\frac{5}{8}$ „ $18\frac{1}{8}$	21
1921 ...	71 6	52 2	34 2	$7\frac{1}{4}$ „ $14\frac{1}{4}$	$7\frac{7}{8}$ „ $16\frac{5}{8}$	$8\frac{3}{4}$

* Average prices per imperial quarter in England and Wales.

† Prices at London Central Market, compiled from the Quarterly Returns of the Registrar-General up to 1880, for later years from the quotations given weekly in the *Agricultural Gazette*.

‡ Prices of Lincoln Wool, half hog, extracted from the *Yorkshire Observer* wool tables.

Time will not permit me to attempt to elaborate the various factors conducing to the break in prices a hundred years ago. The principal, no doubt, was the widespread commercial depression, due to financial dislocation, which speedily followed peace. This was made the more serious by the large numbers of men discharged from the Navy and Army, and by the closing down of many businesses which had been engaged in the manufacture and supply of warlike requirements. Unemployment was rife in all parts of the country, and the evils of the then poor law system added to, rather than mitigated, the difficulties of the position. It should be borne in mind that the farmer of that day was not only entirely dependent upon the home market, but, in the absence of railway transit, upon a far more restricted market for much of his produce than is at present the case. Owing to the stimulus of the war much land, formerly

waste, had been brought under cultivation, and the supplies of foodstuffs available were, therefore, greater than the population, in its distressed condition, could afford to purchase. Agriculture, therefore, followed manufacture and commerce into the slough of depression, and it was only gradually, as financial conditions took a more favourable turn and trade improved, that some revival in agriculture took place. Lord Ernle's exhaustive and interesting work *English Farming Past and Present*, to which I am indebted for some of the information presented this evening, will well repay study by those interested in the agricultural history of this period.

History has repeated itself since the cessation of hostilities in 1918. The price of British wheat was controlled during the war, the grower being allowed something in the neighbourhood of 96*s.* per quarter—the world price being considerably in excess of this. Since harvest the average weekly price has stood as low as 37*s.* 5*d.* The fall in the value of other descriptions of farm produce, except perhaps milk, has been almost equally steep. While monetary conditions, bad trade, and unemployment had their effect in each instance, the more rapid break in price of recent years is, no doubt, due to the improvement in transit facilities and in the introduction of the refrigerator, which have enabled foodstuffs of every description to be poured into this country. In these days it is the world price which governs the home market. The natural protection, previously referred to, which our predecessors enjoyed has disappeared, and the farmer of to-day has to compete against supplies carried expeditiously and untainted from the most distant parts of the globe. The table on the next page shows our increasing dependence upon external sources for our wheat supply.

The old ideal that the population of the country should be fed from the land of the country has long since given way to the demand for cheap food for our teeming industrial population. It is true that during the war, when the submarine menace placed us in the position of a beleagured city, some doubts were felt as to the wisdom of this *laissez faire* policy, and the Corn Production Acts and, later, the Agri-

culture Act, 1920, were passed with the object of increasing arable cultivation and lessening our dependence on imported supplies. But such fears are quickly forgotten, the premiums on insurance become burdensome, and the policy then inaugurated has been allowed to lapse.

TABLE SHOWING DEPENDENCE UPON EXTERNAL SOURCES OF WHEAT SUPPLY.

Year.	Acreage Grown.	Home-Grown Produce (est.).	Wheat and Flour Imported.	Percentage of Home-grown.
	Acres.	Quarters.	Quarters (of 480 lbs.)	
1860 ...	*4,019,725	*13,135,124	7,364,439	64·1
1870 ...	3,761,487	*13,419,496	8,611,427	60·9
1880 ...	3,058,074	*5,905,020	15,976,956	27·0
1890 ...	2,478,677	9,499,235	19,222,371	33·1
1900 ...	1,898,863	6,790,262	23,006,072	22·8
1910 ...	1,856,485	7,074,179	27,779,886	20·3
1914 ...	1,904,932	7,804,041	27,509,081	22·1
1920 ...	1,979,263	7,104,000	29,389,000	19·5
1921 ...	2,084,149	9,224,000	23,858,000	27·9

* Gilbert and Lawes' Estimates.

The following extract from a report in the *Farmers' Journal* for 1822 may be of interest :—

> "We scarcely remember to have witnessed so wet a season as the present ; hardly a day has passed for the last two months without rain. Markets continue to be excessively bad for fat as well as every other description of cattle, and the corn markets are still overloaded at most ruinous prices. Wheat from 36*s.* to 44*s.* ; barley, 26*s.* to 32*s.* ; and oats, 16*s.* to 22*s.* per quarter."

Even the weather from which we have suffered during the past summer and autumn seem to have had its counterpart a hundred years ago. Compare, too, the prices of cereals with the present weekly average of 38*s.* 6*d.*, 37*s.* 7*d.*, and 24*s.* 5*d.* respectively.

Another point of resemblance between the two periods may be mentioned. The prosperity of agriculture occasioned by the high prices of the Napoleonic war attracted an im-

mense amount of capital to the land. Manufacturers who had made fortunes in supplying goods to the Navy and Army were desirous of purchasing land, not only from a belief in its soundness as an investment, but as a means of securing the position and influence which then went with the possession of a country estate. Existing landowners followed suit; in many cases borrowing money for the extension and improvement of their property. Tenant farmers were inoculated with the same virus of speculation; even if they were unable to compete with the more wealthy classes in the purchase of their farms, they were eager to take more land, and they bid against each other in doing so until rents increased far above any previous level. In 1806 the annual income from property in land assessed for property tax purposes was just under 30 millions sterling; by 1814 it had increased to nearly 40 millions. When the crash came, and available capital had been expended, many farmers became bankrupt, while others only survived by a hand-to-mouth form of existence, putting their cereals and stock on the market in an unsuitable or unfinished condition, and thereby still further lowering the prices from which they suffered.

From the estate books of property under my management I have extracted figures indicative of the rise in rents referred to above as having taken place during this period, and for purposes of comparison I have also inserted those now paid for the same land. This has been less easy than might have been anticipated owing to the numerous re-arrangements of farms which have taken place during the century. The rents shown in the following schedule, however, apply to farms the area of which has remained practically unchanged :—

Year.	A	B	C	D	E
	£	£	£	£	£
1800 ...	150	121	—	87	226
1813 ...	250	215	137	160	404
1818 ...	250	220	139	150	368
1829 ...	145	135	153	130	—
1882 ...	245	340	190	246	—
1920 ...	220	200	180	225	450

By the courtesy of Sir Francis Walker I am also able to give rentals from the Alnwick estate books, enabling a comparison to be made between the rents of 1822 and 1922 :—

Year.	A		B		C	
	Acres.	£	Acres.	£	Acres.	£
1822	155	91	313	265	931	1,005
1875	161	86	325	312	941	1,498
1922	168	125	324	300	939	1,075

Year.	D		E		F	
	Acres.	£	Acres.	£	Acres.	£
1822	128	84	256	111	6,200	548
1875	132	148	257	120	6,141	876
1922	124	140	257	130	6,141	720

It is surprising to note how similar are the conditions prevailing to-day to those of 1822. Owners, it is true, did not purchase land during the war. Burdened by heavy taxation and unwilling to raise rents during a time of national stress, many took the opportunity of selling their land to the occupiers. So largely was this done that it is estimated that over 20,000 farmers have become their own landlords during the past few years. It is unnecessary for me to stress their position. In many cases money was borrowed at high rates of interest for the purpose, and the situation in which these owners now find themselves must be a source of keen anxiety to all who have the interest of the industry at heart. The subject was placed upon the agenda for consideration at a meeting of the Council of Agriculture for England, and was remitted to a committee representative of the three principal interests concerned in agriculture. That committee, I believe, reported in favour of credit facilities being provided to meet necessitous cases, and I sincerely hope that the Minister for Agriculture may be able to prevail upon his colleagues in the Government to do something in this direction.

The question at issue, however, is a far wider one than

the position of the owner-occupier. It affects every occupier of land whether owner or tenant, and almost equally does it affect the agricultural labourer whose weekly wage and, indeed, whose very employment depend upon the maintenance of a sufficient balance between the cost of production and the return therefrom.

Turning again to the position of a hundred years ago, the depression in agriculture was long drawn out. It was the subject of many enquiries by Select Committees in Parliament, the evidence submitted before which was one long history of impoverished land, ruined farmers, and pauperised labourers. It was not until the Select Committee of 1836 that some light amid the prevailing gloom was indicated by the evidence. This Committee failed to agree on a report, but the Chairman himself submitted a report in which he referred to the heavy burdens falling on land in respect of tithe, county rates, poor rate, cost of highways, and the low price of wheat (the average in 1835 was 39*s.* 4*d.*). He recommended that importation of corn should be prohibited for three years, and that the Corn Laws of 1815—which prohibited the importation of corn when the prices of British corn were below a certain level—should be made permanent. He concluded his report with the following statement: "Industry and good manage-" ment combined with generous forbearance on the part of " the landlords will produce results which it is vain to seek " from Government." This remark might be applied with almost equal truth to the conditions to-day.

The Government, however, were able to afford some relief to agriculture by legislative action. The Commission of Enquiry into the Poor Laws of 1832 resulted in the Act of 1834, "For the Amendment and better Administration of " the Laws relative to the Poor in England and Wales." The premium on pauperisation afforded under the old system of poor relief was removed, and a substantial reduction in the financial burden upon the land was effected. The Highway Act, 1835, abolishing statute labour for minor roads in favour of a highway rate, and the Tithe Commutation Act, 1836, also eliminated certain definite agricultural

grievances. Far more effective, however, than any legislative action was the introduction of railways. Their effect upon trade and commerce was revolutionary, and was reflected by an expansion of the market for all forms of agricultural produce. Fluctuations in the forward movement doubtless occurred, but from 1836 onwards opened out a period of progress which paved the way for the great advance in science and practice which was the marked feature of the second half of the nineteenth century. In 1838 was founded the Royal Agricultural Society, in 1843 the Rothamsted Research Station, and in 1845 the Royal Agricultural College, Cirencester, whose reopening during the present autumn has been so generally welcomed.

Turning to wages, an examination of the books of an estate in Northumberland, for which I am agent, shows that in 1836 farm labourers received from 2*s.* to 2*s.* 4*d.* a day; in 1837 the wages of stock-men appears to have increased to 2*s.* 4*d.* and 2*s.* 6*d.*; no further increase, however, is shown in the pay-sheets for 1842. Presumably then, as now, the wages in the north of England were somewhat higher than those in other parts of the country, as Lord Ernle, in the Appendix to *English Farming Past and Present*, gives 11*s.* 4*d.* as the average rate of weekly wages for 1824, and 12*s.* 1*d.* for 1837. It is, of course, difficult to lay down any definite basis of comparison in the case of agricultural labourers' wages, as so much depends upon the allowances, which vary greatly in all parts of the country.

So far as I am aware, there has been no authoritative statement issued officially indicating the actual earnings of agricultural labourers at different periods. An exhaustive inquiry, however, was carried out by the Central Land (now Landowners') Association in 1913. In that report it was pointed out that agricultural wages are governed by demand; that the appearance of industrial interests causes a rise in wages; and that where the industrial element is absent, wages are apt to remain low and stagnant.

The following summary of the weekly earnings of agricultural labourers in England and Wales for the year

1912-13 is taken from this report, and includes the estimated value of allowances as well as the cash wage :—

District.	Ordinary Labourers.	Horsemen.	Cattlemen.	Shepherds.	All Classes.
	s. d.	*s. d.*	*s. d.*	*s. d.*	*s. d.*
Northern Counties	22 6	25 2	25 1	26 1	24 8
Yorks, Lancs, and Cheshire	21 1	23 4	23 6	22 3	22 6
North Western and Midland Counties	19 8	21 2	21 3	21 6	21 0
South Midland and Eastern Counties	18 6	20 0	20 3	20 8	19 10
South Eastern Counties	19 7	21 2	21 7	22 10	21 3
South Western Counties	17 10	18 10	19 5	19 8	18 11
Total — England	19 10	21 7	21 10	22 2	21 5
Total — Wales & Monmouthshire	19 9	20 7	20 11	21 2	20 7

The position was greatly altered by the passing of the Corn Production Act, under which the Wages Board was established. As a result of their decisions the weekly hours were reduced and rates of wages were largely increased. The abolition of the Wages Board on the repeal of Part I. of the Agriculture Act, 1920, and the break in prices, have resulted in a general reduction in wages since then, but the wage-book of the estate in Northumberland mentioned above now shows that estate men are receiving 40*s.* to 50*s.*, and farm labourers 34*s.* to 36*s.* a week, rising to 50*s.* to 60*s.* in the case of shepherds and skilled cattle-men; women and boys make 4*s.* a day. Although, therefore, the outlook for the agricultural labourer must cause anxiety, his whole standard of life has greatly improved during the past hundred years. It is sometimes said that agriculture offers little or no ladder of promotion to the farm labourer. This statement cannot, I think, be fairly applied to the north of England. On the estates I manage 33 per cent. of the farms have a rental of from £10 to £25; 11 per cent. from £25 to £50; 18 per cent. from £50 to £100; 14 per cent. from £100 to £150; 6 per cent. from £150 to £200; and 18 per cent. above that.

Forty-seven per cent. of the occupiers have either themselves been farm labourers or are the sons of farm labourers. Of these 31 per cent. actually started as farm labourers. Ten per cent. of these are occupying farms of over £100 rental. I wonder how many other industries could show an equal percentage of promotion from the bottom of the ladder.

As already stated, the spell of depression in the early part of last century was long drawn out. Doubtless one of the reasons for this was the unexpected nature of the attack. All concerned in the industry had been living in something of a fool's paradise, and when the blow came, almost as a bolt from the blue, neither the Government of the day nor the industry itself was prepared with any definite policy for the future. This, I think, is where we may extract a pertinent lesson from the past.

During the war the passing of the Corn Production Acts initiated a certain definite policy. The necessities of the country demanded that the last ounce of produce possible should be extracted from the land, and with this object in view the grower was guaranteed against the possibility of loss arising through a break in the markets, and the labourer was promised a living wage. Both of these covenants, however, were made complementary to the right of control and direction reserved to the State for the purpose of securing its *quid pro quo* in the form of increased production.

After the conclusion of the war it seemed at first that the policy of increased production subject to liabilities and safeguards was to be continued. The Agriculture Act, 1920, was passed, but this measure in its final form was found to lack one important provision which had found a place in the Corn Production Acts—the right of the State to control and direct cultivation had practically disappeared. In the circumstances the withdrawal of the provisions guaranteeing farmers against loss and labourers against greatly reduced wages, however disappointing to the industry, was not surprising, particularly in view of the great financial cost to the country so speedily occasioned thereby. With the repeal of Part I. of the Agriculture Act disappeared a settled

policy on the part of the Government, at any rate so far as any authoritative pronouncement has been made. It is true that one million sterling has been promised for the furtherance of agricultural education and research, but such expenditure cannot be looked upon so much as a policy in itself as an aid to a policy.

I should remind members that this Address was prepared prior to the recent political upheaval. Since then the various political parties have given some indication as to their proposals for meeting the agricultural position. Before my Paper was printed, however, the two older political parties had not officially announced an agricultural policy, and consequently the only one then before the country was that issued by the Labour Party. The main basis of this policy is stated to be "increased "production of foodstuffs by the employment of more "British labour on better cultivated British land," an ideal with which few will be found to disagree. Opinion also will be generally favourable to several of the items contained in their programme for securing this ideal—for example, co-operation, more cottages, and relief in respect of local taxation. They oppose protective tariffs or other artificial raising of the cost of living, and in view of the recent repeal of Part I. of the Agriculture Act, and the preponderance of the urban and industrial vote in Parliament, we shall most of us concur in the view that any such form of subsidy to the farmer is outside the range of practical politics. Indeed, to allow it would give rise to similar demands from other depressed industries. The principal items of the Labour programme which will arouse opposition among those conversant with country life and farming conditions are the abolition of landlordism, a legal minimum wage, and workers' control. Time will not permit me here to discuss the reasons why, in my opinion, the adoption of these proposals would prove detrimental not only to the industry itself, but also to the farm-workers. The objections to them have been fully dealt with by many other writers, and I can only imagine that the Labour Party was influenced to include them in their programme by pressure exercised by

the industrial majority possessing little or no personal experience of agricultural conditions.

Accepting, then, the main basis of Labour's policy as quoted above, let us consider for a moment the pivots upon which it must turn. The country requires the land of the country to be put to its best use. It demands that the maximum amount of foodstuffs should be produced and the greatest amount of employment offered at a living wage. The farmer raises no objection to this demand, but points out that, like every other commercial undertaking, his business must be governed by its profit and loss account. He cannot afford to grow food and employ labour at a loss, but must follow that system of farming which gives the best prospect of a fairly steady and certain return.

The question at once arises whether the requirements of the nation and the farmer are compatible with each other, or are they purely antagonistic. The Labour Party offer no reply to this vital question. They do not show how arable land can be made to pay in the face of unrestricted imports of cheap food; and unless that problem can be solved satisfactorily, the main planks of their platform fall to the ground.

Personally I am of opinion that except on specially suited soils, and in districts which are favoured climatically, we cannot hope to compete with the great wheat-growing areas abroad. But this does not necessarily mean that pasture must continue to supersede arable land. There is, I believe, complete unanimity of opinion among scientific agriculturists that the produce per acre from arable land far exceeds that from pasture. I would, therefore, suggest that the settled policy of the State should be in favour of stimulating arable cultivation. We are too much inclined to think that the plough necessarily indicates the growth of cereals, overlooking the fact that by its use the production of meat and milk, in the market for which we can hold our own more easily against the foreigner, can be greatly increased.

As an example of what I have in my mind I may mention the experiments in connection with arable dairying carried

out by Mr. J. C. Brown at the Harper Adams College, Salop, an account of which appeared in the *Journal* for July last. It was found possible there on land of average quality to carry approximately one cow to each $1\frac{1}{3}$ acres, and, further, that under the arable system the milk yield could be distributed more uniformly throughout the year. While the system followed at Harper Adams obviously could not be reproduced with success on every holding, it does indicate changes in method and in rotation, the principle of which might be adopted with advantage by many farmers.

In suggesting the adoption of an arable policy, I do not advocate compulsion, nor do I recommend the indiscriminate breaking up of all kinds of pasture. In this country there is much grassland too good to justify its conversion; and there is much on soil too poor to make cultivation a paying proposition. Both may be capable of improvement, and, indeed, Professor Somerville and Professor Gilchrist have shown how greatly poor grasslands may be improved by the use of basic slag, and by the adoption of modern scientific methods. Their practical demonstration of this at Cockle Park and on the poor Sussex Downs have been followed with the closest interest by a wide circle of agriculturists. No, in recommending the State to adopt "Speed "the plough" as its settled policy, I mean that, without exercising control or compulsion, it should do everything which lies in its power to encourage, advise and assist the arable farmer, and so gradually to induce him to bring under the plough much of the land which is not now producing its share under grass.

In recommending this I lay myself open to a question as to how it should be done. That question must be answered, but I have already made considerable demands upon your patience, and I can, therefore, give only a very rough sketch of what is in my mind, leaving it to you to fill in the outlines.

I have already indicated that, in my opinion, all subsidies, bounties or tariffs are outside the range of practical politics, and can, therefore, be eliminated; and with them must drop any attempt to dictate to the farmer what crops

he must grow and what amount of labour he must employ. The Agricultural Committees, however, should continue in being to supervise agricultural education and administer Acts of Parliament connected with the industry, and to assist landowners in securing that the rules of good husbandry are observed. There are a number of other matters which if not comprising in themselves a policy, would, if taken up by the State, favour the policy of the plough which I have advocated. We are, I think, inclined to refer questions of difficulty to a committee, and then to pigeon-hole its report and forget all about its recommendations. In 1918 Lord Selborne's Committee reported in favour of the policy which was embodied in Part I. of the Agriculture Act, but most of us have since overlooked the fact that this recommendation formed merely a small portion of that exhaustive report, and that by far the greater part was devoted to proposals having for their objects the encouragement of arable cultivation. These, I suggest, should be carefully studied and followed by the Government.

To conclude my Address I will state very briefly some of the directions in which I consider that the policy of the plough might be assisted. In certain of these, for example, research and education, a start has already been made, and it must not be thought that because I include them in my list I do not thoroughly appreciate the valuable work which has already been done.

1. *Research.*

Improvement of live stock and farm crops. Testing of new varieties. Elimination of cattle and crop diseases and pests. Discovery and testing of new manures and feeding stuffs. Ascertaining the most economic forms of stock rations for milk, meat, &c. The effect of different methods of tillage, modes and depths of drainage, times of planting, quantity of seed, &c. Improvement of pasture.

2. *Education.*

Of landowner, farmer, and agricultural labourer, at Universities, Colleges, and Farm Institutes, also by local

courses of lectures and demonstrations. The results of research, when definitely determined, should be made widely known by every available means, and in particular, where possible, by actual demonstration.

3. *Organization and Co-operation.*

In sale and purchase of farm produce and requirements. Credit facilities.

4. *Local taxation.*

A fairer distribution of the burden of local taxation. The memorandum on this subject prepared recently by the Central Landowners' Association, the National Farmers' Union, the National Union of Agricultural Workers, and the Workers' Union deals exhaustively with this subject, and will receive general support from all connected with agriculture.

5. *Transport.*

Improvement in transport facilities and reduction in their cost.

6. *Commercial.*

The encouragement of new industries likely to benefit agriculture. Beet-sugar. Flax. Utilisation of potatoes not required for food purposes. Utilisation of mechanical, water, and electrical energy. Improved telephone system.

7. *Labour.*

Extension of conciliation committees. Provision of allotments and small holdings. Development of rural industries and forest areas to provide employment in slack seasons. Organisation of village clubs and the social side of village life.

I am aware that these suggestions do not embody any new or original ideas, but no heroic measures are possible in agriculture. What is needed to secure a return of prosperity to the industry and the best return from the land is a settled and helpful policy on the part of the State and the good-will of owners, tenants, and occupiers, each in his own

sphere, the owners by seeing that their farms are properly equipped and managed, the tenants by adopting up-to-date methods and by taking advantage of the findings of scientific research, and the labourers by putting their hearts into their work.

The Hon. Edward G. Strutt, c.h. (Past-President), said he had been honoured by being afforded the privilege of proposing a hearty vote of thanks to the President for his interesting and thoughtful Address. It came as a bracing breeze from the north, and the hopeful and helpful spirit it engendered would no doubt cheer those who, like himself, were Southerners, and who were not naturally so cheerful or so strong.

The President received an especial welcome from The Institution as being the first from the north of England to fill that office; no previous President, he believed, had ever come from north of Yorkshire. The Institution had not yet had a Scottish President, but he had reason to hope that that would come about before long.

He would like to pay his tribute to the late President, Mr. J. H. Sabin. No one who came across Mr. Sabin could help respecting and reverencing him. His whole life seemed given to his profession and to the service of The Institution; no man gave more of his time or his thoughts to The Institution than the late President, and no one was more willing to give the benefit of his vast knowledge and ripe experience to younger members. His loss was universally regretted.

The President had mentioned the great changes which had taken place in the constitution and method of election of the Council, and he thought everyone would agree with what he had said in that respect. The Presidents had, in the past, always received the most united support and loyal help from the members of the Council, and indeed from all the members of The Institution. It was one of the privileges of being a President of The Institution that the Council and all the members gave him their fullest support and showed him every conceivable kindness. He was quite sure that

the new Council, which was, of course, larger than the old one, would continue in the same course, and he was confident that now, as in the past, the President could rely on their assistance.

The President's main thesis had been agriculture, and he had compared the present condition of agriculture with that existing a hundred years ago. There was no subject which appealed more to him personally, and he believed it had been of great interest to the members present. There were many present, perhaps, who would be in a better financial position to-day if they had studied the subject more carefully two or three years ago. History was apparently repeating itself very accurately, but one difference between the position a hundred years ago and the position to-day was that in the old days there was no imported wheat; English wheat supported the entire population. The harvests in 1812 and 1813 were very bad, and, as a great deal of wheat was required during the Napoleonic Wars, a very large acreage of land was required to produce the supplies necessary. Better harvests followed, and the price of wheat went down with a run.

At the present time he was afraid that English harvests did not affect matters much; the price was governed entirely by the price ruling several thousand miles away, and farmers had not the consolation which they enjoyed in the old days of knowing that the English people would live on English wheat. He hoped sincerely that the present depression would not last so long as that in the first half of the last century; it would be a dreary prospect to have to wait until 1936 before any improvement took place. He thought, however, that agriculture was at present in a better condition to withstand a period of depression than it had been formerly.

The President had mentioned the great work done by the agricultural community during the war. People did not altogether realise, he thought, how much was done by the agriculturists of England during that time. He would recommend everyone to read a very interesting article which appeared in the "Journal of the Royal Agricultural Society

"for 1921"—an account written by Lord Ernle, of the work done by the Food Production Department during the war. There was at the time a great deal of criticism of the work of that department and of the action of the Agricultural Committees, and no doubt many members of The Institution had joined in that criticism and made picturesque remarks about many of the things that had been done, but on the whole a great work was carried out, and the article to which he had referred showed how great that work was. Sir Thomas Middleton estimated that in 1918 enough cereals were produced to feed the country with bread (made with a small addition of oats and potatoes) for forty weeks; *i.e.*, four-fifths of the amount required to feed the country for a year instead of the usual proportion of one-fifth. In spite of that, farmers were able to keep their stock going, even if in a somewhat niggardly way. The production of cereals represented an increase of 32 per cent. over the previous ten years, and of potatoes 59 per cent.

The President had mentioned, incidentally, that the controlled price of wheat was 96*s*. Personally he believed that in 1920 it was 95*s*. or 96*s*., but during the war—during the three previous years—it was 76*s*. Every farmer who grew an acre of wheat at that time contributed the equivalent of £7 12*s*. to the Treasury, for wheat imported from abroad cost that amount more per acre than home-grown wheat. It would be seen, therefore, that farmers made a very large contribution at that time to the war funds of the nation. It was a curious thing that the people who had grassland and did not plough it up made more money than those who did; cattle and sheep and stock generally paid better than cereals, though no doubt some arable crops, such as potatoes and onions, paid well.

In his Address the President commented on the fact that in 1820 there was a great deal of land bought at high prices, and said the same thing happened two or three years ago. He would like to ask whether it was really a fact that land was sold at high prices two or three years ago; personally he was of opinion that land in England never reached so high a figure as might have been expected.

considering its possibilities at that time. A few weeks ago he had the opportunity of seeing some figures in respect of property which was bought for £100,000 in 1820, after the good times and when the depression was setting in, but which was valued in 1920 at only £60,000, and that in spite of the enormous improvements in the way of drainage (it had no drainage system in 1820), buildings and roads which had been carried out. Notwithstanding all those improvements, every £100 worth of this land had decreased in value to £60 by the time of the so-called "boom" two or three years ago.

Personally he would like to see more owners of land. He thought it was the most hopeful sign one could have for the stability of the country—to have many owners of land. Too many large landowners were, he thought, a danger to the State, and he rejoiced to see land cut up for small owners, though many of them would require financial credit. There was no need, he thought, to be as gloomy about the prospects before the farmer-owner as some people were. He would like to see many more owners of land, not only farmers but small-holders; the more the better.

It could not be said that land was or had been dear in England; if one compared the increased cost of buildings at the present time with the cost ten years ago, it would be seen that the rise in the value of buildings alone—farm-houses, cottages, and farm buildings—was sufficient to account for the rise in the price of the land.

No doubt in the eighties and nineties farmers in the north did not suffer so much as those in the south; and wages in the north were kept up when those in the south become very low indeed. The President had mentioned figures as to earnings compiled by the Central Landowners' Association in 1913. Personally he thought the earnings there shown, which included shepherds, horsemen and stockmen, were rather on the high side, but assuming for the moment they were right, since farmers in 1922 received 59 per cent. more for their produce than they did in 1913, the equivalent earnings to the 21*s*. 5*d*. given as the average for England in 1913 would be 34*s*. In the eastern counties, with which he

had most to do, the earnings received to-day should average about 31*s.* 6*d.* In practice it would be found that most people's labour bills at the present time were about double what they were before the war.

Agriculture, which was an occupation full of interest and even pleasure, provided many opportunities, as the President had said, for a man to improve his position. The President had given some most interesting figures showing how far agricultural labourers had been able to raise themselves, and how many of them were now farming on their own account. That showed how important it was for every estate to encourage farms of different sizes, so that men could keep on improving their position and bettering themselves.

The Agriculture Act had come and gone. He confessed to having been a keen supporter of it, keener, probably, than most people. He had sat on four Government Committees—one in 1914, one in 1915, and two in 1916—all of which recommended something of the kind, but it was not until the Selborne Committee presented an interim report it 1916 that any attention was paid to the matter. The 1915 Committee, of which Lord Milner was Chairman, had made similar recommendations, but no attention was paid to them at that time. It looked about the year 1917 as if agriculture would never again be neglected; but, unfortunately for the agriculturists, they began to cost the State a little money, and the State took fright and made arrangements with the farmers to get out of the Act altogether. Personally he believed the situation could have been saved by some modification of the Act. The price allowed in the Act for oats was much too high; that was, he thought, caused by the gentlemen from Scotland, and perhaps the President's friends from Northumberland had helped. He believed, however, that if that had been altered, the Act could have been carried out, the arable cultivation would have been maintained, and the agricultural population kept on the land at a reasonable cost to the community. Now the Act had been abolished, it was hopeless to expect its re-enactment in the future, and the question was, as the President had indicated, how was the land to be kept under the plough?

The President was hopeful, and thought good could be done by arable dairy work. He had done that sort of thing in a small way himself—not entirely arable, but with very little grass—and had always found it could be quite successful, provided the cereals paid as well. If the cereals did not pay, he did not think arable dairy farming could compete with the grass system; the grass farmer produced his milk so much more cheaply during the summer months than the arable farmer. He rather feared that that was not so good a remedy as one might wish it to be, though no doubt it might help.

One might avoid putting the land down to permanent grass and keep it under the plough by growing crops like lucerne and sainfoin. To grow lucerne on heavy land and sainfoin on chalk soils was probably the best remedy farmers could adopt; it might tide them over the time of low prices and would rest the land. After lucerne the land was always in a most fertile condition, and one could grow three or four crops without much manure. Sainfoin answered the same purpose. He thought that would be a better course to adopt than the general putting down of permanent grass, except, perhaps, in the west of England, where conditions were more favourable for grass growing.

The President had mentioned that the Selborne Committee recommended much that was useful and which could profitably be applied besides the guaranteed minimum prices and the various other matters included in the Agriculture Act. He was glad the President thought something could be done on the lines laid down by the Committee, and that they had made good recommendations. The Committee gave a great amount of thought to the things it recommended, and he had no doubt that many, if adopted, would be helpful. He was quite certain that the remedies suggested by the President would be very helpful indeed, especially organisation. At the present moment agriculture was suffering very much from a difference between the retail and the wholesale prices, and the most important subject, he believed, for agriculturists to study at the present moment was some method of bringing those prices

into harmony, or of eliminating, partially at any rate, the middleman. That was a subject the Farmers' Union should take up; it could not be done by the Government.

He had been greatly struck by what the President had said as to the importance of making life interesting in the villages. He believed that if life was made more amusing in the villages in a reasonable way, and better facilities given for recreation, young men would be much more inclined to stay in the villages at what appear to be low wages, because, after all, there were great advantages in country life. Many people loved it; there was no monotony in the work they had to do, as there was in the manufacturing districts. He believed, therefore, that people would stay in the country and be happy there if facilities were given for young people to obtain some enjoyment and pleasure as well as hard work. The best remedy for the present situation would be for farmers, landowners and labourers to join together and work together, as the President had suggested, for the best interests of agriculture as a whole. He was not certain whether, at the present time, a landowner could venture to invest more capital in the land, but, at any rate, he could do his best to help those about him, so that all might join for the benefit of agriculture and to defend their interests and secure justice for themselves. They would never obtain it unless they united in defending their interests.

He thanked the President most heartily for his interesting Address, and it was with great pleasure that he moved a cordial vote of thanks to him.

Mr. C. H. Sample (Fellow) said he felt highly honoured at being permitted to second the vote of thanks to his old friend the President for his excellent Address. He had been associated with Mr. Clark for a great many years, both in business and in many other ways. They had co-operated in valuations and been in opposition in arbitrations; moreover, he had sat under the President as umpire. He was therefore in a very good position to bear witness to his sterling character, his ability, and his fair dealing, qualities

which had enabled him to attain the high position he occupied at the present time.

Mr. Clark had earned the respect and confidence of all surveyors in the north of England, and had always been willing to help, by advice and assistance, any younger surveyor who might need his aid. It would be superfluous to add that his advice was always well worth having.

The present was the first occasion, as the proposer of the vote of thanks had said, when a President had been chosen from among the members of a north-country Branch, and while the members of the Northumberland and Durham Branch highly appreciated the honour done to Mr. Clark, they felt that a large portion of that honour reflected upon themselves as members of the Branch.

The President had delivered a most able and interesting Address. The portion of it which most concerned surveyors at the present time, he thought, was that dealing with the future of agriculture. He quite agreed with most of what the President had said. The policy of "Speed the plough" might, from the consumer's point of view, be the best, but it was a policy that had to be followed with care. During the war there were many examples of how that policy could be abused; hundreds of acres were ploughed up which grew nothing and never had grown anything, and the problem now was to get it back to grass. Fortunately, farmers knew more about getting land down to grass at the present time than they did some years ago, and some of the poor land was going back to grass in a better condition than before. The only condition, to his mind, under which increased ploughing could take place, was when crops grown on ploughed land would produce a better revenue than could be obtained from grassland.

The President had very aptly remarked that agriculture was a commercial undertaking, and the method which produced most profit to those concerned was the method that would be followed, no matter what the consumers required.

In the last few years research and education had made great strides, but there was still room for a great deal more improvement in both those directions. The words spoken

more than a hundred years ago by Mr. John Gray, one of the very greatest agriculturists they had ever had in the north, still held good—"The culture of the mind must pre-"cede the culture of the land." He had great pleasure in seconding the proposal.

Mr. J. I. Davidson (Vice-President) said he was sure everyone would agree that it was a work of supererogation to say anything in support of a motion which had been so ably proposed and seconded by the speakers who had preceded him, and he was certain it would be carried by acclamation without further support. He desired, however, in a few words to offer to the President the felicitation and congratulations of his Scottish colleagues on the position which he had attained and on the eminent and distinguished manner in which he carried out the duties that had fallen to him.

It was not the practice, he knew, to criticise the themes chosen by Presidents for their Opening Addresses, but he would like to say he was glad to find the President was not a pessimist. In that he appeared to follow the example of those who were at the present time offering farms to let, at any rate in Scotland. Notwithstanding the great slump in prices which had taken place, he found that for anything in the nature of a desirable holding—and even for some which could hardly be said to come within that category—rents were still being offered little short of those obtained during the war when prices were much inflated. Sooner or later, he supposed, the matter would right itself, and such people would probably—or, at any rate, possibly—find it expedient to seek the protection which the Corn Production Act offered them—if they survived the necessary period required by it—and bring into operation the provision for a re-valuation for rental.

He did not desire to detain the meeting for more than a few minutes, but he had been particularly interested by one part of the President's Address, the part dealing with small holdings, to which his friend Mr. Strutt had referred. The President mentioned that the high percentage of small

holdings on the estates he administered often afforded a ladder to the labourers to rise to a higher sphere of life. He took it that the small holdings in question were what might be described as economic small holdings.

In Scotland, and in England also to some extent, of recent years there had been great schemes of land settlement. Those on his side of the Border had not been carried out under the direction of the county councils, but by the Board of Agriculture; he was bound to say, though with great respect, that in hardly any sense could they be looked upon as economic. A start was made by selecting a farm which might or might not be out of lease—involving compensation to the tenant if the lease was still current—and then they proceeded to re-equip, for the purposes of land settlement, the holdings which they acquired. The value of the land, in many cases, did not exceed the cost of the initial equipment which had to be paid for, and thereafter the small holdings were provided with additional equipment in the shape of buildings, fences, &c., so that they were burdened with a rent-charge which, he understood, remained for a period of fifty years. That constituted a millstone on the backs of the small-holders, under which, he feared, many of them would never be able to exist.

The kind of small holdings he desiderated—for he had faith in the system properly applied—were holdings occupied by hardy, practical men, who were capable of standing the climate and doing the work, and whose heart was in it. Holdings of that kind would probably succeed; the men would get on. A few days ago he let to the son of a small-holder a farm the rent of which was £500 to £600, and that was the fourth or fifth holding the family now occupied, though the father was only a farm grieve forty years ago. That was evidence of what hardy, practical people could do. To create the small-holder, however, as well as the small holding, was, in his humble opinion, and with the greatest possible admiration for the ex-Service men, a mistake. It was doing the men no service to settle them on land which they were totally unsuited to occupy, and on land which was not likely to give an effective return.

He would finish as he had begun, by again extending his congratulations to the President. One of the things that best pleased his Scottish audience, when the President came to address a meeting in Glasgow, was the fact that he mentioned that he himself was a Scotsman. His audience seemed to think there was bound to be a certain amount of reflected glory in his success, which they greatly appreciated. Personally he was certain that the Scottish characteristics—he would not call it the predatory instinct, though a Scotsman had been described as a man who kept the Sabbath and anything else he could lay his hands on—of grit and enthusiasm had helped to raise Mr. Clark to the eminent position he had attained on the other side of the Border.

The resolution of thanks was put to the meeting by the Honorary Secretary, and carried with acclamation.

The PRESIDENT, in reply, thanked the members most sincerely for the kind way in which they had received his humble contribution to the proceedings. He felt it contained nothing very helpful, but the question of the present position of agriculture was a very difficult one. Bricks had to be made without straw, and it could only be done, as had been said, by the good will and united efforts of all connected with the land; that was the only way by which more prosperous times could be attained. He hoped and trusted that within a few years agriculture would again be prosperous.

It was perfectly true, as Mr. Davidson suggested, that those who worked on the land had, as it were, to be bred to it, and, as he said, the small-holders to which he himself had referred in his Address were bred on the land; men who, having got hold of small economic holdings, were able to work them and knew how to work on them—not only the men themselves, but their wives, their daughters, and their sons. That was the secret of their success.

He thanked the meeting again for the kind way in which they had received his Address. He did not propose

to comment on the observations which had been offered on it, beyond saying that they were perfectly fair and right. He could only add that the shortcomings of his Address had been very tenderly treated. He was very grateful to those present for the kindly way in which he had been received and for the cordial manner in which the vote of thanks had been carried.

The meeting then adjourned.

PAPER 471.

FOOD PRODUCTION DURING THE WAR:

Compensation under the Defence of the Realm Regulation 2 M (l).

By E. Meacher (Fellow),
Late Claims Officer to the Ministry of Agriculture.

To be read at the Ordinary General Meeting of The Surveyors' Institution, on Monday, 11th December, 1922.

Before entering upon this subject it will be necessary to recall the circumstances under which Parliament thought fit to authorise the issue of this Regulation, and to consider what powers were conferred by its different sub-sections.

During the year 1917 the submarine menace was becoming serious, and it was felt that some steps must be taken to increase the amount of food grown at home in order to set free more of our already depleted shipping for other purposes, and, indeed, to put the country as far as was possible on a self-supporting basis.

To carry out this work the Food Production Department of the Board of Agriculture, formed under the direction of Lord Ernle, was started by Sir Thomas Middleton, Sir Francis Floud, and Mr. Sydney Mager.

Under the Cultivation of Lands Order, 1917, the Board of Agriculture authorised the constitution of county agricultural executive committees, and delegated the powers conferred on the Board by Regulation 2 M to these bodies excepting the powers under Regulation 2 M (1) (*f*).

The main provisions of Regulation 2 M (1) with which this Paper is concerned were as follows:—

> "Where the Board of Agriculture and Fisheries, after such consultation with the Food Controller as may be arranged, are of opinion that, with a view to

maintaining the food supply of the country, it is expedient that they should exercise the powers given to them under this Regulation, the Board may—

"(*a*) Enter on and take possession of any land which in their opinion is not being so cultivated as to increase, as far as practicable, the food supply of the country, and, after entry thereon, do all things necessary or desirable for the cultivation of the land or for adapting it for cultivation; and for such purposes enter on and take possession of any buildings on the land or convenient for such purposes; and

"(*b*) Take possession of any machinery, implements of husbandry or plant (other than machinery, implements or plant in the possession or under the control of a dealer or manufacturer), or any farm produce, stock or animals, which, in the opinion of the Board, are required for the cultivation of land or the increase of the food supply of the country; and

"(*e*) By notice served on the occupier of any land require him to cultivate the land in accordance with such requirements as the Board may think necessary or desirable for maintaining the food supply of the country and may prescribe in the notice; and

"(*ee*) By notice served on the occupier of any land require him in accordance with the terms of the notice to adapt the land for cultivation by repairing or removing any hedge or fence on the land, or by cleaning or repairing any ditch or drain, whether natural or artificial, by which the land is capable of being drained; and

"(*eee*) By order, applicable generally or to any specified area, and published in such manner as the Board may consider to be best adapted for informing persons thereby affected, prohibit or regulate the

use of land for the cultivation of any crop specified in the order, and by any such order require the ploughing up within such time as may be specified in the order of any land in use at the date thereof for the cultivation of any such crop; and

"(*f*) By notice served on the tenant of any land which, or part of which, in the opinion of the Board, is not being so cultivated as to increase as far as practicable the food supply of the country, determine his tenancy of the land on such date as may be specified in the notice, or on the application to the landlord by order authorise him in any such case to determine the tenancy in accordance with the terms of the order."

It was in respect of the exercise of the powers under this Regulation by persons or bodies deriving authority from the Crown which gave the subject, who suffered loss thereby, the right to apply for an "*ex gratia*" payment to the Defence of the Realm Losses Commission, which was first constituted under the chairmanship of Mr. (now Sir Henry) Duke, K.C., and comprised amongst its members several eminent lawyers and agriculturists.

Claims against the Board of Agriculture were not formulated to any extent until the year 1918, when the late Lord Terrington was chairman of the Commission, Sir Matthew Wallace and the Right Hon. Laurence Hardy being the Commissioners who specially dealt with claims under Regulation 2 M. These claims became very numerous, and in March, 1918, the Board decided to appoint a claims officer to deal with all claims arising in England and Wales.

The work at this time involved the preparation and conduct of the Board's cases before the Losses Commission, and in connection with these early cases many entirely new and important matters of principle arose. At the time of my appointment, Mr. E. M. Konstam, K.C., was in charge of the claims work, and continued to represent the Board before the Commission in those cases in which the applicant was represented by counsel.

It will be of interest to give here a few of the points raised, and the basis on which it was assumed the Commission made its awards. It must be borne in mind that the Commissioners acted under the special terms of their remit which contained the words "direct and substantial loss." It seems, therefore, that no compensation was awarded unless an applicant could prove that he had sustained an actual loss at the time of the hearing of his case, and, further, that he was not debarred from coming again if at some future time a further loss was sustained in consequence of the exercise of the powers conferred on the various Government departments by the Defence of the Realm Act.

Briefly the cases dealt with may be divided into—

(1) Claims for loss through the taking possession by an executive committee of an applicant's land and stock thereon;

(2) Claims for loss due to the service of various forms of cultivation orders;

(3) Claims for loss due to the service of an order determining an applicant's tenancy.

Claims under (1) generally contained items—

(*a*) For loss of tenant-right, live and dead stock, and crops;

(*b*) For loss by disturbance;

(*c*) For loss of rent;

(*d*) For loss in some cases of expected or possible profit.

Claims under 1 (*a*) need no comment, except that owing to the unusual time of year at which possession of a holding was frequently taken, a situation arose for which the custom of the district did not provide.

Claims under 1 (*b*) for disturbance followed closely the lines of a claim under the Agricultural Holdings Act, 1908, made in consequence of a tenancy being terminated by a notice to quit given for reasons inconsistent with good estate management.

Owing to the short notice given in many cases of the intention of a committee to take possession, loss by forced sale might have been serious had it not been for the high and rising prices obtained for farming stocks during the war years. The Commission, moreover, where it was possible to prove to them that a farm was in a really bad condition, were not unduly sympathetic. It was urged as a defence to such claims that, owing to the condition of the land taken over, the owner might and could consistently with good estate management have given the tenant notice to quit, and that no claim would then be sustainable.

Claims under (1) (*c*) for rent were properly made by occupiers since the Commission held that taking possession of a holding under the Regulation did not terminate an applicant's tenancy or relieve him from the terms of his contract to pay rent.

Claims under (1) (*d*) for loss of profit. The Commission in many cases awarded an applicant a sum equal to one year's rent in lieu of profit, but would not consider a claim based on the result of an expected crop unless the crop was, when the land was taken over, actually approaching maturity.

Claims under (2) for loss due to cultivation orders were made both by owners and occupiers before any crop had been grown. Owners claimed for loss of stored fertility in pastures broken up, for the repayment of past expenditure on grass seeds allowed to tenants, or for sums paid in settlement of former outgoing tenants' claims under the Agricultural Holdings Acts for laying land down to grass. Generally such claims were not allowed, but the attitude of the Commission towards an occupier's claim for the cost of laying down land to grass, which he was compelled to break up under an order, was not so clear.

In June, 1918, a very important case from Norfolk was heard by the Commission, in which an occupier, served with an order to break up a field and grow corn, based his claim on loss stated to have been actually suffered by reason of the corn crop of that season being destroyed by wireworm. The Commission seemed at first to take the view that, if an

order involved taking only a fair and normal arable risk from year to year, no claim would be sustainable. Subsequently, however, the Commission made an award of some £50 to the applicant, and it may be said that from this case sprang the majority of claims made by occupiers.

Claims under (3) for loss due to orders determining tenancies were limited in number, as in most cases, where the Board made such an order, an Executive Committee had or did simultaneously take possession of the land occupied by the tenant served with the order. These claims were made for loss by disturbance, which matter has already been briefly dealt with.

It will be remembered that the Corn Production Act, 1917, came into operation in August of that year, except as to Part 4 dealing with power to enforce proper cultivation. Under Section 11 (3) of that Act powers exercised by the Board under the Defence of the Realm Regulations were to cease in August, 1918, or on the termination of the war, whichever might be the earlier, and therefore Part 4 of the Act would then have come into operation.

As the war was still continuing in the summer of 1918, the Government decided that it would be inconvenient to terminate the powers given under the Defence of the Realm Regulations, and the Corn Production (Amendment) Act, 1918, was passed to deal with the situation by keeping these powers alive until the termination of the war. Under Section 1 (*d*) of this Act the method of settling compensation in respect of loss arising from action taken by the Board of Agriculture or its delegates contained in Section 9 (9) of the Corn Production Act, 1917, was followed, viz.:—

> "Any person who is interested in any land in respect of which any notice is served or order made under this section or of which possession is taken under this section, and who suffers any loss by reason of the exercise of the powers conferred by this section shall, if he makes a claim for the purpose before the expiration of such period, not being less than one year, after the exercise of the powers as may be prescribed by the Board, be entitled to be paid by the Board such amount

or amounts by way of periodical payments or otherwise as may represent the loss."

Section 9 (10) of the same Act provides that in default of agreement the amount recoverable or payable by the Board under Sub-section (9) shall be determined by arbitration.

The mode of arbitration is set out in Section 11 (1) of the same Act, and is before a single arbitrator under and in accordance with the provisions of the Second Schedule of the Agricultural Holdings Act, 1908; and in default of agreement by the parties on the selection of an arbitrator, the President of The Surveyors' Institution was given power to nominate.

On 21st August, 1918, the Losses Commission ceased to deal with claims against the Board of Agriculture of the nature dealt with in this Paper, and such cases as had, at that time, been entered for hearing were returned to the Board for settlement. Power now being given to effect settlements with applicants by negotiation and agreement, it became necessary for the Food Production Department of the Board to consider what further organisation would be necessary to meet the new situation. Instead of all cases being heard in London, it was obvious that arbitrations would take place in the various counties in which claims arose. It was finally decided to utilise the officers of the agricultural executive committees, or of valuers locally employed, to make reports to the Board; and, after the claims and reports had been investigated by me, I was authorised to sanction the terms on which agreements for settlement might be made by the local officers, to authorise payments, or to give instructions for cases to be referred to arbitration, where agreement was impossible.

A great amount of initial difficulty in dealing with claims arose from lack of uniformity in reporting on and dealing with the very varied questions of principle to which these claims gave rise, and this was overcome only by deciding such questions at headquarters, and by issuing a confidential circular to the executive officers of the local agricultural committees dealing with the principles of compensation and the legal aspect of these claims.

Before mentioning more particularly points of professional interest which arose, it will be necessary to state some of the main principles on which we acted.

The first question was "Who could claim?" the answer to which may be given as "Any person interested in any "land could claim for loss suffered by him by reason of the "exercise of the powers." This, as a rule, meant the tenant on whom the notice was served, or who was dispossessed, and his landlord.

The position of an incoming tenant whose predecessor had been served with a notice to break up land called, however, for special consideration. It is clear that such an incoming tenant became interested in the land as soon as there was a binding agreement for letting the land to him. It was decided, therefore, that if after such date the condition of the farm was altered by service on the predecessor of a notice to plough, the incoming tenant could claim for the depreciation in value of the farm to him, by reason of the action taken by his predecessor to comply with the notice, or resulting naturally from such notice. If the ploughing was done or the notice was served before such date, the incoming tenant knew, or should know if he made enquiry, the condition in which the farm was agreed to be let to him, and could not claim compensation on account of it being in that condition. The occupier served with a notice to plough was the only person who could be compelled to comply with the notice. If he failed to do so and the incoming tenant did the work, his action was as much voluntary as if no notice had been served, and for such action no claim could be entertained.

These principles seem to be correct, although in a case in the Court of Appeal, *Todd* v. *North Riding Agricultural Executive Committee*, it was held that the applicant Todd had a right to make a claim in respect of two fields which the owner, Lady Carlisle, had been ordered to break up, but had subsequently let to him to carry out the directions given in the order.

The second important question was the meaning of the word "loss." The Board considered that this was not used

in the narrowest sense, but covered such damage as was a reasonable and natural consequence of the exercise of the powers. The Act gave no indication as to the basis on which compensation was to be assessed; but the Board's view was that where a cultivation notice was served, the basis should be the depreciation of the claimant's interest in the land, *i.e.*, the difference between the profit that the claimant might reasonably expect to receive from the land subject to the obligation to comply with the notice, and the profit that he might reasonably have expected to receive if no notice had been served. The act of the Board was a single injury, and not a continuing injury as in the case of taking possession, and a claimant was called upon to make his claim for all present and prospective loss.

If he claimed immediately on service of the notice, the ascertainment of compensation could only have been made on estimates, and this was not practicable, but where ascertainment was postponed for one or more years, actual results were available, and a large number of settlements were made with the material available from two seasons' cropping results. In the case of an annual tenancy an occupier had no certainty of occupation beyond the date on which his tenancy could be determined by a notice to quit, and the Board's view was that compensation payable to a yearly tenant, who had not received notice to quit when his claim was determined, should be ascertained on the basis of the tenant's interest extending to the date when it could be determined by a notice served at that time.

At the end of 1918 a number of claims were received based on the loss of the crop of one season due commonly to the wireworm present in the old turf, and it was exceedingly difficult to say what the true loss under the order was likely to be until the result of subsequent seasons had become known. A considerable number of claims were, however, settled at that time by making an arbitrary deduction for what might be termed future recoupment, it being obvious that any estimate of loss was entirely speculative. Various claimants challenged the foregoing principles adopted by the Board, but they have been supported in numerous cases

referred to county court judges, and received confirmation in the Court of Appeal in the case before referred to, *Todd* v. *North Riding Agricultural Executive Committee.*

The Board, which subsequently became the Ministry of Agriculture, contended that, where several cultivation notices were served on the same person, an arbitrator must in assessing the loss take into consideration the effect of all such notices. This principle was challenged by a number of claimants, who wished to have the benefit of compensation in respect of any field or part of a field on which there was a loss, but to pocket the additional profit derived from breaking up other fields or the remainder of the same field. Cases on this point went to the county court, but were decided against the applicants, excepting where notices to cultivate were served in respect of separate and distinct holdings.

In the ascertainment of loss under a ploughing order, it was necessary to form an estimate of the probable profit which might have been derived from the land had it remained under grass, but it is obvious that such estimates of profit, although more certain than in the case of arable profits, were always subject to the risks and chances of weather, if calculated in terms of a hay crop, and if as grazing, on the amount of live stock kept and the judgment of the individual farmer. In view of this many valuers considered that such estimates should be made on a rule-of-thumb basis, such as the Schedule B income tax assessment; and generally, when the rent of the particular field as grass was fairly apportioned, the result was not unfair, and in numerous counties this system was adopted.

On the other hand there were counties or districts in which the sale of hay was customary and general, and applicants could show the actual proceeds from adjoining fields. In these cases it was difficult to object to a conservative estimate of profit made on the basis of a probable crop, but these estimates were inclined to run into high figures, since in 1918 the military authorities took over all the hay grown, and were paying as much as £8 per ton for it, whilst in 1919 and 1920, it will be remembered, that the price of hay went up still higher.

In a number of counties, especially in Wales, "quota" orders were served, or, in other words, an occupier was required to have a certain area under corn on his farm in a particular year. We decided in these cases that the proper method to adopt was to ascertain to what extent there was interference by reason of the order, or, in other words, what fields were broken out of pasture, which in that season except for the order would have remained under grass. The measurement of loss was confined to these fields, but it was not always easy to decide what the exact interference was in districts in Wales, where permanent pasture does not exist in the same sense as in the Midlands, but where grass is broken up at long and rather indefinite periods. Further, the measure of loss was not so clear in these cases since the effect of the order might merely anticipate an eventual loss. The fact remained, however, that Welsh farmers generally had power to sub-let their grazing, and by breaking up additional grass were prevented from realising the phenomenal rentals obtained from 1918 onwards from graziers. These cases were, therefore, dealt with on the general principle applied to permanent pasture.

It will be appreciated that crop failures on land broken up under cultivation orders arose from many different causes, and it was extremely difficult to ascertain the exact reason of failures. It was laid down for the guidance of persons reporting on claims that proof must be supplied by a claimant that his loss was inevitable, and not due to negligence in the cultivation or harvesting of a crop; that when a claimant under the terms of some orders was allowed a choice of crops to be planted, he exercised his discretion reasonably and with due regard to the season of the year; that when under other orders a claimant was free to choose the land to be broken, his selection was reasonable; and lastly, that proper steps were taken to contend with the attacks of wireworm or other insect pests. We contended that the only loss for which an applicant could make a claim was that which flowed naturally and inevitably from a cultivation order, and where the foregoing conditions were not satisfied, a claim was wholly or partly contested.

To what extent a loss due to bad weather, or the carrying away by flood of crops at harvest, was a matter for compensation has never been finally decided, but in the county court of Anglesey the question was put, "Can the claimant "claim for losses (if any) caused by adverse weather con- "ditions, or scarcity of labour, or an interdependence of both "conditions," and the judge answered this question in the negative. In any event it was always maintained that compensation could not be based on the accidents and chances of one season's cropping.

Before leaving the subject of occupiers' claims in respect of cultivation orders to break up grass, certain cases should be mentioned which gave rise to considerable difficulty. These occurred for the most part where an occupier left his farm at Lady Day, 1918, and prior to leaving had broken up a pasture, and had either sown a corn crop or carried out certain acts of cultivation in preparation for one. Generally the valuer for the incoming tenant or landlord agreed to pay for such acts of cultivation and no difficulty arose. In a few cases, however, the incomer's valuer refused payment, even when the work done was of value, the reason given being that his client considered that the field would have been of more value to him under grass, and that as the land was not let to the outgoer as arable "custom did not apply." The outgoer's valuer then made a claim against the Ministry for loss suffered, and an endeavour was made to get a decision on this point in the county court. In the case submitted the subsequent corn crop was of admitted value to the incomer, but the judge found in effect that if the arbitrator decided that the outgoing tenant could not, under custom, recover the sum expended from the incomer, a claim was sustainable against the Ministry. The arbitrator found that the sum expended was not recoverable under "custom," and awarded a sum against the Ministry. Obviously if arbitrators had generally taken this view, public funds would have been drawn on in favour of these incoming tenants in a manner which could hardly be equitable.

Other cultivation orders served were for the cleaning or

better cultivation of land, but for obvious reasons these did not generally give rise to claims, or, if they did, such claims were not pursued. If these orders were served after the passing of the Corn Production (Amendment) Act, 1918, the applicant had a right of appeal to arbitration as to whether the land referred to in an order had been cultivated according to the rules of good husbandry; and if an arbitrator found that the land referred to in an order was not so cultivated, a claim if pursued would essentially have failed.

The claims of occupiers have practically all been disposed of, and no fresh claims can be entered since the Ministry had, under Section 9 (9) of the Corn Production Act, 1917, power to make regulations under this Act prescribing a date up to which claims could be made. This was done, and in May, 1919, certain regulations were published in the *London Gazette*. These regulations fixed a date not being less than one year from the date of the exercise of the powers or 31st July, 1919, whichever might be the later, by which occupiers must enter their claims. The great need for the issue of these regulations was discovered early in 1919, when many claims were received based on the loss of a 1918 crop, no opportunity having been given to anyone on behalf of the executive committee to inspect the crop or see the stubble before it was broken up. These regulations, which became Statutory Rule and Order No. 1078, prescribed one year from the date of relinquishing possession of land taken over by an executive committee as the period in which persons could enter a claim, and the claims of owners of land, of which some other person was in occupation when the powers were exercised, had to be made within three months after the termination of such occupation. It was considered that if an owner were given plenty of time in which to ascertain whether any material loss was suffered by the breaking up of pasture by his tenant, these claims would be very limited, and events have so far supported this supposition.

It is interesting to see what has exactly happened in these cases. The great difficulty has been for an owner to prove

that any material loss has been suffered, since far from reductions of rent having to be made, most holdings, owing to prevailing general conditions, are let at increased rentals, whether pasture land thereon has been converted to arable or not. Certain owners have pressed claims, however, based either on the supposed depreciation of the land by its conversion to arable, or alternatively on the cost of reinstatement and attendant loss. If the wording of Section 9 (9) is again examined, it will be seen that any person "who suffers "loss by reason of the exercise of the powers" is "entitled "to be paid by the Board such amount or amounts" "as "may represent that loss." Having adopted the wider interpretation of the word "loss," the Ministry has contended—that the amount representing loss in these cases is the damage which the claimant suffers at the time of the exercise of the powers, *i.e.*, the time of the service of a cultivation order, or, in other words, the difference in the capital value of the holding with the field or fields forming part of it in their original state, and as arable; that the difference in capital value is the difference in the sum which a hypothetical purchaser would at the time of the service of the order have paid for the holding in the circumstances, and with the facts and prospects existing at the time of the service of the order; that nowhere is there any statutory liability on the State to pay for the cost of reinstatement to grass of land broken up under a cultivation order; and that the only bearing the cost of reinstatement has on the assessment of loss is as a measure of the amount whereby the hypothetical purchaser's offer for the holding might have been diminished, if he had thought it would be necessary to reinstate the field or fields to pasture at some future date.

In most cases, therefore, where no diminution of rent can be shown, it has been argued that, at the worst, such a hypothetical purchaser would diminish his offer only by such expenditure involved in reinstatement as would reasonably fall on him, such as finding the cost of grass seeds for an occupier to relay, or the amount likely to be recovered from him under the Agricultural Holdings Act at

the end of a tenancy for the improvement, laying down permanent pasture with consent. It is interesting to note that many of these old pasture fields, when broken up, subjected to a few years' arable cropping, and then properly relaid to pasture, have the appearance of being considerably improved. This is probably the result of the stirring of the soil to a considerable depth, and so rendering more food, and especially more moisture, available to the new grasses.

Except in respect of the claims of owners not in occupation of land just mentioned, the work of settlement is nearly completed. On 30th June last, when my appointment as Claims Officer to the Ministry terminated, 10,472 claims of all descriptions (exclusive of those dealt with by the Losses Commission) had been received, and of these 8,939 had been finally settled, together with about another thousand, which had practically been disposed of. The amount claimed in respect of the 8,939 claims was £1,165,704 and £17,580 per annum, the latter sum referring to claims for annual payments in respect of land taken possession of by committees. These 8,939 claims were settled for £467,215 and £14,370 per annum respectively, so that the four years' work shows a saving to the Treasury, by the reduction of claims, of over £700,000. Recourse to arbitration was necessary in 412 cases only. It will be seen from these figures that the food production scheme has, as far as compensation is concerned, cost the State less than half a million pounds, which must, I think, be regarded as satisfactory.

I should like to add that although in the course of this work I have met some unreasonable and unpatriotic claimants, yet as a whole landowners and farmers have not pressed these claims unduly; indeed, a large number of patriotic persons, who had a right to compensation, have made no claim at all. These persons realised that, in carrying out the scheme for greater food production, they were but doing their duty as Englishmen, and were willing to shoulder the loss involved as some contribution to winning the Great War.

PAPER 472.

THE AGRICULTURAL POSITION AND THE POSSIBILITY OF STIMULATING ECONOMIC PRODUCTION IN THE FUTURE.

By Harry German (Fellow),

Vice-Chairman, National Farmers' Union.

To be read at the Ordinary General Meeting of The Surveyors' Institution on Monday, 11th December, 1922.

It is somewhat difficult to deal with the subjects on which I have been requested by Mr. Goddard to read a short Paper, for the reason that the agricultural situation at the present time changes from day to day. I also realise that of necessity the Paper must be very short and contentious.

I propose to deal first with the agricultural outlook, now that all control and guarantees have been removed. To do this we must first look back to 1913–14, the year before the war, and consider how matters stood then. It is not questioned that agriculture at that period had to a great extent recovered from the disastrous years preceding 1905, and that this recovery was entirely owing to the energy and perseverance of the British farmer, helped by first-class landlords and willing labour. When farms were to let, good tenants with capital could easily be found; confidence had been

restored, and it is safe to say that agriculture was fast regaining the position it occupied in the early seventies.

In August, 1914, the war came. For the first two years very little notice was taken of those engaged in agriculture, and men were freely taken from the land without any consideration of what the future had in store. Then came the period when the Government and the nation realised that a shortage of food stared them in the face, and Lord Ernle (Mr. Prothero) was instructed to prepare a plan for securing increased food production. Perhaps the less said of the work of the department set up for this purpose the better, but it might be interesting to place on record—

(*a*) That no figures, so far as I am aware, have ever been issued showing what the department cost the nation ; and

(*b*) That when Lord Ernle launched his ploughing-up programme many men who thoroughly understood practical agriculture realised that a mistake was being made, and that a much better plan would have been to guarantee each year a remunerative price for cereals, potatoes, &c., giving the tenants of suitable land the right to plough up pasture after receiving a certificate from a committee set up for the purpose. This, I am sure, would have produced more food at very little cost to the nation.

The necessity that extra food should be produced from the land brought from all quarters statements that British agriculture should never again be allowed to drift back to be the Cinderella of British industries. It cannot be denied that it was the confidence inspired by these statements that made many farmers not only purchase their farms but enter into commitments that were altogether beyond their financial ability to fulfil unless good times continued. Needless to say, good times have not continued.

I propose now to compare the sale price of the principal products of the farm as ruling in July, 1914, and in October, 1922, and we find—

Farm Products.	1914.	1922.	Increase or Decrease Percentage.
	s. *d.*	*s.* *d.*	
Wheat	35 0	45 0	28½ increase.
Oats...	21 0	27 0	28½ ,,
Barley (Malting) ...	32 0	45 0	40½ ,,
Barley (Grinding) ...	22 0	35 0	59 ,,
Potatoes (King Edward's at Wisbech)	52 6	50 0	5 decrease.
Milk, Liquid, for consumption	7 Summer	1 0	71 increase.
	1 0 Winter	1 8	67 ,,
Beef...	7	10	43 ,,
Mutton	9	1 3	66⅔ ,,
Pork...	8	1 0	50 ,,

If you take cereals, the average increase is about 40 per cent., but it is very doubtful if the price of barley can be maintained even for the immediate future.

The position with regard to potatoes is deplorable; thousands of acres of good pasture have been ploughed up for the purpose of growing potatoes. Hundreds of ex-soldiers have gone on to such land, and what their future is to be I dare not predict.

Milk is 69 per cent. up on the average for 1914, but it must be borne in mind that the costs of producing milk have increased more than those of other agricultural produce, especially as regards labour.

I now compare the costs of the chief items used on the land or payable by the occupiers of a farm, as in July, 1914, and in September, 1922 :—

Rates have increased 200 per cent. In Leicestershire the country rate has increased from 1*s.* 7¼*d.* in 1914 to 5*s.* 2½*d.* in 1922.

Rents.—Under the old class of landlord some rents have gone up from 15 per cent. to 25 per cent., though in

some instances no increase has taken place. Where, however, the tenant has purchased his own or another farm, or where he is the tenant of the new class of landlord or speculator, the increase in rent or equivalent charge, taking all matters into consideration, must be at least 100 per cent.

Cake on average of the different varieties has increased	61 per cent.
Maize has increased	61 „
Labour, taking increased wages and shorter hours, has increased ...	80 „
Tradesmen's bills, implements, shoeing, &c., have increased	100 „
Slag has increased	127 „
Super-phosphate has increased	81 „

It is quite plain from these figures that the increase in the cost of production is more than double the increase in the price obtained for the products of the farm. I have not given any figures with regard to vegetable and fruit prices, but it must be borne in mind that a great many farmers and a large area of land are concerned in this kind of agriculture, and that 1922 has been one of the worst years ever known.

To arrive at a definite decision as to the agricultural outlook, it is advisable to state here the factors that have brought agriculture to its present deplorable position. As to one factor I quote Mr. Bonar Law in a recent speech at the Old Kent Road Baths. He there stated :—

> " The way in which agriculture has been shoved from pillar to post by passing Bills and then repealing them has enormously aggravated the position of agriculture."

Secondly.—The great disparity between increase in cost of production over the increase in the sale price of agricultural products.

Thirdly.—The unfortunate financial position of men who have purchased farms or started farming since 1918.

Fourthly.—The uncertain market conditions. In the years before the war we had low prices, but those prices were fairly uniform; and people had confidence to pursue the ordinary course of business. Now markets for nearly all classes of products vary very largely at short intervals and thereby create panics. This means that a great deal of produce is thrown on the market at any price that can be got.

Fifthly.—Agriculture is greatly handicapped by—

(*a*) Dumping of foreign produce which has been grown for and should have gone to other countries, but owing to the position of the rate of exchange cannot be sold to those countries and is sent here;

(*b*) High railway rates, especially in comparison with the rapid depreciation of agricultural values;

(*c*) The levying on agricultural land of very high rates from which little or no benefit is received by the occupier;

(*d*) The fact that all other trades are able to organise and to a great extent control prices. It is a peculiar fact, but a true one, that in the case of everything an agriculturist has to buy he is bound to ask the seller what he will take, whereas when he is a seller he has to ask the buyer what he will give. In other words, the minimum purchase price of what a farmer buys is nearly always governed by the cost of production, whereas the price received by the farmer for his products is governed by foreign competition irrespective of the cost of production.

Sixthly.—The greatest asset of the farmer of the eighties and nineties was stock-rearing, especially good class cattle. The Government and the people of this country have thought fit to injure this asset by the intended action in respect of the Diseases of Animals Act with regard to importation.

When we have carefully considered the facts I have set

out, we are, I think, bound to confess that the "agricultural "outlook" at the present time compares unfavourably even with the experience of the years from 1878 to 1905. It has all the difficulties and many more, with none of the compensating advantages.

The few landlords with a personal interest in agriculture who remain are rated and taxed out of existence. The farmer, especially if he has purchased his farm or started since 1918, is in nine cases out of ten in a deplorable financial condition.

The labourer, owing to the fact that the farmer is totally unable to pay more wages, is being asked to accept a wage upon which, if he is a married man with a family, it is quite impossible for him to live.

I now come to the second subject mentioned in Mr. Goddard's letter, viz., "What steps might usefully be taken "to stimulate the production of home-grown food in the "future?"

For the purpose of answering this question I propose to quote from the evidence given by Mr. Donaldson on behalf of the National Farmers' Union before the Royal Commission on Agriculture to show how difficult it is at the present time in any way to stimulate production. Mr. Donaldson stated that the general law which agriculture obeys is the law of diminishing returns. In proof of this he cited a Rothamsted experiment, where the application of 200 lb. per acre of a complete fertiliser to a wheat crop gave an increase of 18 bushels, whilst a further 200 lb. gave an additional increase in crop of 8 bushels, and the application of a third dose of 200 lb. added only a further increment of 1·6 bushels. With high prices, and on a rising market, then, there is every justification for a vigorous policy of management on the farm, and the farmer should farm high and stimulate his land to produce its utmost. On the other hand, with low prices, or in the face of a falling market, the reverse policy is indicated—all idea of intensive farming, with consequent high production, must go. The mistake that brought disaster to so many men in the eighties and nineties was their attempt to keep up their production in

the face of a falling market. "High farming is no remedy "for low or not-paying prices," and thirty years of low prices have burned this lesson deep into the minds of most farmers.

Professor Orwin, writing in the *Observer* of November 12th, 1922, says:—

> "Land which has a normal capacity for yielding 6 quarters of wheat per acre will probably never go out of cultivation; but when low prices are ruling, no scientific discoveries will make profitable the production of 6 quarters of wheat from land which has a normal capacity of 3 quarters only. At a time like the present, when prices are crumbling day by day, science can do little to help the farmer."

Personally I agree with these opinions. I do not mean to infer by this that in my opinion science can to-day do little to help agriculture; but I believe that the greatest help it can give is along the lines on which the National Farmers' Union has urged that the recent grant of £850,000 should be expended, viz., in the discovery of the cause and best method of combating the animal and plant diseases and pests, which are a great handicap to agriculture.

I am afraid the only practical steps that can be taken to stimulate production are ruled out, for the time being at all events—I refer to protection or subsidies. Great encouragement can be given to agriculturists, however, if they receive from the Government fair play in the matter of—

(1) Rating.

(2) State credit for farmers.

(3) Preference to home products in Government contracts for supply of the Navy, Army and Air Force at home stations. Some home products, such as meat, are now barred, and this has reacted, apparently, on the attitude of local authorities.

(4) Amendment of the Merchandise Marks Act to prevent imported agricultural produce being sold as British.

(5) Equality of treatment under the Safeguarding of Industries Act, so that agricultural producers, too, may be safeguarded, in case of necessity, against unfair competition resulting from dumping or collapsed exchanges. The exclusion of agricultural produce from the scope of Part II. of the Act is utterly illogical, and the authors of the Act never sought to justify their attitude.

(6) Reduction of railway charges, and no preference of any kind to foreign produce.

These are, in my opinion, the only answers that can be given to-day to the questions raised in this Paper, but in any discussion that may follow I should welcome any other suggestions. However unsatisfactory this effort of mine may be, it will have served a useful purpose if it impresses upon the members of this Institution the serious position now existing in this country's greatest industry—agriculture.

AT

THE ORDINARY GENERAL MEETING

Held on Monday, December 11th, 1922,

DISCUSSION took place on two Papers, entitled

FOOD PRODUCTION DURING THE WAR: Compensation under the Defence of the Realm Regulation 2 M (l),

By Major E. Meacher (Fellow);

AND

THE AGRICULTURAL POSITION and the Possibility of Stimulating Economic Production in the Future,

By Harry German (Fellow)
(Vice-Chairman, National Farmers' Union).

J. McCLARE CLARK (President) in the Chair.

Sir ANKER SIMMONS, K.B.E., in proposing a vote of thanks to the authors for their Papers, said he must say that the pessimism of Mr. German was rather calculated to be depressing. He could not help being reminded of the prisoner who, after being defended in a most wonderful manner by a counsel who reduced the whole court to tears, turned round to the warder and said, "Who is that cove?" The warder replied, "That is your counsel." Whereupon the prisoner said, "He is a melancholy sort of bloke, isn't "he?" He (Sir Anker) felt rather relieved that the President of The Institution was not quite so pessimistic with regard to the future of agriculture as was Mr. German.

He was also thankful that he himself still retained that optimism which had been the guiding star of his life. He did not believe in sitting down and bewailing too much the terrible surroundings which oppressed farmers for the

moment. Neither did he think that their position at the present day was anything like as bad as it had been in the early eighties. He was rather surprised that Mr. German should be so pessimistic as to compare the position to-day with all that farmers went through in the early eighties and nineties. He should have thought that, as Mr. German had led much the same kind of life as he himself had always led, the recollection of the terrible farm sales at that time, meaning the utter ruin and complete bankruptcy of men who had been well known in more prosperous conditions, would have remained so fixed upon Mr. German's memory as to make him hesitate before he compared the state of things to-day with what had occurred then. After all, there was the simple fact to be faced that, notwithstanding the present terrible depression, and notwithstanding the awful picture which the future held for farmers, if either Mr. German or himself had twenty farms to let to-morrow morning at reasonable rents, they would all be let in a week. That showed, did it not, that, at any rate, deep down in the heart of the British agriculturists there was a conviction that they would see their way through the difficulties which, for the moment, assailed them?

There was one thing he was quite sure of, namely, that it was no good thinking agriculturists were going to get much from the Government. They had to put their own house in order, and look to themselves, taking advantage of the better agricultural education that they possessed at the present day compared with what obtained forty or fifty years ago. They must not proceed on too conservative lines. They had to turn their attention, for instance, to what it was that had made Denmark so successful, and what it was that had led to success in some of our big corn-growing colonies. He had listened the other day to an extraordinarily entertaining lecture given by a man who had just come home from Australia. That man had absolutely laughed at the idea that it was one man's work to look after a pair of horses, and said that if one were to go from one end of Australia to the other, one would never find a man walking alongside his horse, and that for the simple reason

that the horse alway walked much faster than the man. He (Sir Anker) was only just indicating quite briefly—because time was short and he was sure long speeches were not called for—that it was in those directions that farmers should look for a cheaper and a more economic cost of production. Agriculturists had to keep their eye on the cost of production to a far greater extent than they had ever done in the past. They had to ask themselves whether there was not a great deal more in lucerne, for instance, than they had hitherto been tempted to think. They had to ask themselves—those who were sheep farming—whether they grew sufficient sainfoin. They had to ask themselves whether there was not a great deal more in ensilage than they had been given to think. They had to take some notice of gentlemen like Mr. Edge, who had proved by demonstration how possible it was to make big fortunes out of pig-keeping. It was in the direction of new lines, and of avoiding some of the old methods which had led farmers so often into a quagmire, that he would ask those who were interested in British agriculture to turn their attention, and to try to educate themselves and their fellows in the way of seeing whether it was not possible for them to produce at a lower cost.

He did not at all follow Mr. German when he quoted the late President of the Farmers' Union, Mr. Donaldson, as having stated that it did not pay to farm well. His own experience of farming—and it had been a pretty wide one—was that if it did not pay to farm well, it would certainly never pay to farm badly. Mr. German also quoted as an illustration that if a crop were given 200 lb. of fertiliser per acre, and then it was given another 200 lb., that the same result would not be obtained from the second application of the 200 lb. of fertiliser as was obtained from the first. He would only say in answer to that, that if a man was given a bottle of whisky it would make him drunk, but if he were given another bottle of whisky it would not have the same effect as the first, and if he were given a third bottle he would hardly be able to consume it, and it would have practically no effect at all. He did not believe in that

theory of Mr. German's. He believed a man must farm well if he was going to farm successfully.

Neither did he question Professor Orwin when he said that land which had a normal capacity for yielding six quarters of wheat per acre would probably never go out of cultivation. He should think not indeed. He should like to have some of that land either to sell or to let. At any rate agriculturists should not be downhearted. He hoped Mr. German would not think that in making his somewhat captious criticisms he was seeking to detract from the value of his Paper, because he quite realised that the difficulty of the present situation had to be faced. They would not do anything by sitting down and wailing over the bad times; they had to fight their way through and put their own house in order. One of the first things they required to do, in his opinion, as an industry, was to organise agriculture properly. It never had been organised, and until it was put on organised and sound lines they would never get the Government to do anything at all for them. What they wanted was the whole of the interests of the landlords to be centred in one organisation instead of in two as they were at present; they wanted the interests of the farmers in one organisation instead of in three as at present; they wanted the interests of the labourers in one organisation instead of in two as at present; and then they wanted—what they had really got, only it did not fulfil its name—to utilise the Central Chamber of Agriculture as their House of Parliament, to which the three bodies could send delegates, and from that body send representations to Parliament, who would have behind them the full force and voice of landlord, tenant, and labourer. Until they got that they would never get anything out of the Government, because what happened to-day was that the farmers' representative said the farmers wanted so-and-so; the landlords' representative stated that the landlords wanted something else, and then the labour man urged that his party must have this or that. What did the Government do in those circumstances? They immediately said, "These fellows do not know what they "want," and the result was they got nothing.

In conclusion he desired very cordially to propose a hearty vote of thanks to the readers of the Papers. He thought he could assure them that the members had very much enjoyed listening to them.

Mr. Robert Cobb (Fellow) said he did not quite know why he had been asked to second the vote of thanks, except possibly, in the case of Major Meacher, Mr. Goddard had felt tha the (Mr. Cobb), being an agricultural valuer, had had a higher percentage of claims turned down by Major Meacher than any other valuer in England, and, secondly, with regard to Mr. German, that he was a born optimist; that optimists were bankrupt; that Mr. Goddard knew he was bankrupt, and hoped that Mr. German would give some advice which would stop the bankruptcy going any further. At any rate it was with the greatest pleasure that he seconded the vote of thanks, first of all to Major Meacher for his Paper on the historical survey of what had been done during the war, which had been described as dead and forgotten; and, secondly, to Mr. German for his Paper ou the burning question of agriculture, which Mr. German apparently described as dead but not forgotten.

With regard to Major Meacher, he had been making enquiries in the county of Kent, and he had found that the Major was met with the greatest respect that it was possible for a Government official to command. Possibly that was not very great praise, but, at any rate, the Agricultural Officer in Kent had stated that he had thoroughly enjoyed his four years' service with Major Meacher. Major Meacher had had the greatest difficulties to contend with. First of all he had had the whole of England and Wales to cover and not just one small county, and no doubt he had discovered that claims were put in in one part of the country in a very different way to what they were in another part. Therefore Major Meacher had had to adopt certain principles which were applicable to all parts of England, and although some agricultural valuers felt, perhaps, that they had had their claims turned down in rather a ruthless manner, neverthe-

less they were all very grateful for what Major Meacher—and he might add Mr. Sydney Mager as well—had done.

He would like to refer to just two or three particular points in his Paper. Major Meacher referred to the *ex gratia* payments which had been allowed. But why *ex gratia?* Surely if a man had something which the country wanted, the country should pay for it? Otherwise the position would be that one man would have to give his property and then have to pay a tax for somebody else's. That seemed to be unfair. He thought that point might be conveyed to the Ministry of Transport, who seemed to be trying to get roads on the same basis. He objected to *ex gratia* payments. Then Major Meacher said that, in many cases, he had allowed profits. Why did not he allow a profit in every case? A farmer could not live otherwise; he must get something beyond his expenses. No doubt there were cases of very bad farms—not in Kent, of course—on which the farmer would not have made any profit, and then perhaps it was right not to give a profit; but surely in general cases a profit should be allowed?

Then he had been told that the Crown recognised no agreements. Why not? We were not Germans, and if the Crown took a farm at feeding price and promptly did what they liked, selling off everything, and then expected a man to come in and pay the market price, surely that was not justice?

He was afraid that his criticisms were destructive and not constructive, but as the Act was passed and gone, it was rather difficult to be constructive.

Major Meacher came to The Surveyors' Institution and said that his Department's good work had saved the country £700,000. He would suggest that Major Meacher had come to the wrong place. Members would hardly like to be told their claims were wrong to the tune of £700,000! At any rate it was with the greatest pleasure that he seconded the vote of thanks to Major Meacher, not only for his Paper, but for the work he had done during the war.

Turning to the second Paper, the writer was in a somewhat difficult position. Mr. German had been asked, as a

land agent and as a member of The Surveyors' Institution, to read a Paper on the agricultural situation; he was also in the honourable position of being vice-president of the National Farmers' Union, and that dual qualification, to his mind, reflected the greatest credit on Mr. German's ability and integrity. Of course he had to be pessimistic; he could not be expected to be anything else. Agriculture was dead and at the end of its tether, and Mr. German was present to rub that in, so that although he was pessimistic, he did not see what else he could possibly be.

Mr. German had referred to two points, namely, the critical position of agriculture to-day and the possibility of stimulating economic production in the future. With regard to the agricultural position to-day, he (Mr. Cobb) did not think anything could be said. It was very bad, but as Sir Anker Simmons had said, if a farmer could get over the bad times of 1879 he could get over anything, and he himself had great faith that they were going to get over the present precarious position.

In one part of the Paper reference was made to the great disparity between the increase in cost of production over the increase in the sale price of agricultural products. Should not Mr. German have put that the other way round—the great disparity between the decrease of sale price of agricultural products and the cost of production? The cost of production, except for a small percentage when economies would be effected, was pretty nearly at the bottom, and it was for agriculturists to try, by some means or another, to raise the price of produce or the amount produced.

Then Mr. German referred to six "cures" with which members no doubt agreed. With regard to the fifth cure, which referred to the Safeguarding of Industries Act, he thought most of the members felt, as Sir Anker Simmons felt, that they could get nothing from protection or subsidies; what they were to get they must get for themselves; but as long as the Safeguarding of Industries Act was in existence for some industries, he did feel, with Mr. German, that agriculture was one of those industries which ought to be temporarily included.

He was not experienced enough, he was afraid, to suggest any practical remedies, but as Mr. German has asked for suggestions, he would venture to put before the members three principles. He would call them the three "C's" of agriculture, namely, confidence, co-operation, and credit. There was another "C" which farmers did not want, namely, control. Agriculture could never flourish under control. It had to stand on its own feet, and any remedy must come from within the industry and not from without. With regard to confidence, he thought the first thing the agricultural industry wanted was a policy from the Government made on Monday and kept on Tuesday, not a policy made on Monday and turned down on Monday night. The industry wanted to know where it was. It did not know where it was at the present moment. Then there was another confidence, not that the farmers should have but which the public should have. The public needed to have confidence in the British farmer. They had confidence in him during the war, but they had lost it since. The public wanted confidently to know that the farmer could supply them with what they wanted, and that he could supply it quite as well as the foreign farmer. Once the public were educated up to the fact that British produce was quite as good as foreign produce, and a little better, he believed they would go out of their way to buy an English apple rather than a foreign one. At any rate, British farmers must try to instil confidence in the public.

With regard to co-operation, he did not refer merely to co-operation as between buyers and sellers, but to co-operation between the landlord, the farmer, and the worker. The first thing a farmer did when he wanted to reduce his expenditure was to turn to the worker. The agricultural worker could not be expected to accept lower wages under present living conditions, because he could not live if he did. He thought it was Mr. Strutt who had said that the wages of a farm varied from 35 per cent. to 50 per cent. of the total expenditure on the farm. That, of course, was a big percentage, and consequently the farmer turned to it in the first instance when he was seeking to reduce costs. But he did

ask agriculturists present and agriculturists who were not present to try to find some other way by which they could make both ends meet than by further reducing the wages of the farm labourer at the present moment.

Last, but not least—in fact, from his own point of view, it was the most important—came credit. If agriculturists did not have credit soon they would not be able to carry on till next summer. That was a fact. They wanted credit to-morrow morning if they could get it. There was a Committee considering this sitting at the present moment, the chairman of which was Sir Theodore Chambers, a Fellow of The Institution, and if he could not formulate a scheme no one could.

He was afraid his suggestions had been rather abstract ones, and he would conclude by heartily seconding the vote of thanks to the readers of the Papers.

Mr. Dryland Haslam, Junior (Fellow), in supporting the vote of thanks to the readers of the Papers, said that Mr. Cobb, in his speech, had referred to the six "cures" which were laid down by Mr. German in his Paper. He, himself, intended only very briefly to refer to the first of them, namely, rating. It was generally believed that agricultural land bore only half-rates; but although theoretically that might be correct, in practice it worked out as an absolute fallacy. The Agricultural Rates Act of 1896 certainly intended that agricultural land should bear only half-rates, but it did not now so work out in practice. In fact, the Act of 1896 had lately proved a very inequitable one, not only to agriculturists, but to other ratepayers in the country districts. That could be most easily shown by a little illustration, and he proposed to submit some figures to the meeting which were very simple and could easily be followed. He would assume a rateable value of £20,000, of which one-half was the rateable value of buildings, &c., and the other half of agricultural land. He would assume, secondly, that £2,000 had to be raised in 1896 in respect of each £20,000 of rateable value, and the same figure in 1897. That would have meant a regular rate of 2*s.* in the pound in

1896. In 1897, the first year after the Act took effect, the local authority would get their £2,000 as follows :—

2*s.* on £10,000, rateable value of buildings	£1,000
1*s.* on £10,000, rateable value of land ...	500
1*s.* Government grant	500
	£2,000

Looking to the enormous rise in rates of late years, it would not be unfair to assume that £6,000 would be wanted now in respect of each £20,000 of rateable value. That would mean, *if* the Act was doing what it was supposed to do (and what it did do for a few years), a rate of 6*s.* in the pound all round, raised as follows :—

6*s.* on £10,000, rateable value of buildings	£3,000
3*s.* on £10,000 ,, ,, land ...	1,500
3*s.* for Government to pay	1,500
	£6,000

But—and now the members would see the inequity—the Government grant was still the same as it was in 1897 (the original £500), and the sum therefore worked out as follows :—

Government grant	£500
7*s.* 4*d.* in the £ on £10,000—Buildings ...	3,667
3*s.* 8*d.* in the £ on £10,000—Land ...	1,833
	£6,000

The result was that the occupier of agricultural land was not only paying 8*d.* in the £ more than half the rate on his land, but 1*s.* 4*d.* more than the full rate on his buildings, and the unfortunate occupier who had no land was called upon to pay 1*s.* 4*d.* in the £ more than he would have paid if the Agricultural Rates Act had not been passed.

He thought he had made the point clear. The rate would have been 6*s.*, and the person who had got no agricultural land was now called upon to pay 7*s.* 8*d.* All rate-

payers, therefore, could fairly claim that the Act as it now worked was altogether inequitable. He would therefore urge the Council to make representations to the Government, first that the grants in aid should at once be altered so as to do what it was intended by the Agricultural Rates Act should be done, namely, relieve land of one-half its rates; secondly, that the figures should be revised every five years (they never had been revised, and they should be revised at least every five years so as to prevent the inequity continuing); and thirdly, that all charges for national or mainly national services such as roads, criminal prosecutions, maintenance of lunatics, and education, should be taken off the rates and transferred to the taxpayer.

The first two representations were a natural corollary of his argument about the Agricultural Rates Act. The third representation touched fresh ground, and much could be said for it; but he did not propose at that late hour to say more upon it, particularly as he wanted to refer to one other subject on the rating question, namely, the parsons' rate relief. By the Ecclesiastical Rating Act, parsons, on account of the fact that the rise of tithe had been prevented, were allowed exemption either of half or whole of their rates. That worked out in effect (as in the case of his own parish) as follows: That the parson getting some of his previous years' rates returned, and being relieved of the current year's rates, meant an extra penny in the £ all round. That had created a great deal of feeling in parishes amongst a certain number of farmers, particularly those who owned their own farms and who were not members of the Church of England, as they complained that not only had they to pay 30 per cent. more tithe to the parson, but they also had to help to pay his rates, forgetting, of course, that the rise in tithe had been stopped.

He trusted that the Committee which was at present sitting would be able to take the points which he had mentioned into their consideration.

Mr. C. B. Fisher, C.B.E. (Member of Council), said Mr. German had referred to the fact that his Paper was

necessarily short but also contentious. He had evidently raised the contentious and fighting spirit of Sir Anker Simmons. Knowing what he had known for many years of both of those gentlemen, he could say that they were two very good contentious people to be together. There was also a certain contentious spirit about the seconder of the vote of thanks, Mr. Cobb; but he was sure Mr. German would thoroughly appreciate any contentious spirit among the members of The Institution, because that was exactly what he liked. Anyhow there was one thing which Mr. German had done, and what everybody else was trying to do at present in connection with the agricultural industry, namely, to form a bond of union in the industry. Mr. German had done that that night by being practically a *liaison* officer between the National Farmers' Union and The Surveyors' Institution. He was sure the members of The Surveyors' Institution were glad to welcome such an honourable member of the Farmers' Union as Mr. German. It was a spirit which was to be greatly encouraged, and he thought it was at the root of all the remedies for the present evils.

In 1919 the Ministry of Agriculture and Fisheries Act had been passed. That was an Act to reorganise the then Board of Agriculture and to bring it into touch with the whole of the agricultural industry from the top to the bottom—by way of the Agricultural Associations in the county, the Agricultural County Executive Committees, the Council of Agriculture, and thence to the Advisory Committee of the Ministry. Thus the Ministry would be in touch with all sections of agriculture throughout the country. That had been the effect of the Act, and under it it should have been possible to have formed a bond of union for the agricultural industry. He was not finding fault with the Ministry of Agriculture, because it had been a very difficult thing to divest themselves from what they had been under the old Act (when they were the Board of Agriculture and when they had simply been administrators of Acts of Parliament), and to bring themselves into touch with the whole of the agricultural industry of the country. But it

had been done upon the basis of the Irish organisation, which he was informed had been a great success.

He did hope that Mr. Mager, whom he was glad to see present, would endeavour to inspire the Ministry of Agriculture with the feeling that it was most essential, for the success of the agricultural industry, for the Ministry to be entirely in touch with agriculturists throughout the country. Possibly it might be asked why it was that the Ministry was not now in touch with agriculturists. As a member of a County Agricultural Committee, he did not think the Ministry had endeavoured to infuse agriculturists with that spirit of close connection to the extent that they should do. They were practically sitting down merely carrying out Acts of Parliament, which was what they did under the old Board of Agriculture *régime*. What agriculturists desired was that they, through the Journal of the Ministry—which was an excellent journal and had most excellent articles—should be more in touch with the personal element of the Ministry, with the personal element of the Agricultural Advisory Committee, and with the doings of the Agricultural Council. The Journal of the Land Agents' Society and the Journal of the National Farmers' Union generally started its contents by stating what the various councils, advisory committees, and so on, were, and had been, doing. A journal which contained a certain personal element in it did a great deal more good than a journal which did not contain that element. If people found that a journal gave information as to what the advisory committee or the council were doing, they would go on to read the other articles. He had travelled up to town the previous day with a large farmer who was in the corn trade and who carried on operations in Mark Lane, and he had asked him if he had ever seen the Ministry's Journal, and that gentleman had replied that he did not know it existed. That state of things did not tend to bring the agricultural community together. He put that forward to the Ministry of Agriculture, not in any hostile spirit, but merely as a suggestion to them that they should endeavour to get into touch more thoroughly with all the representatives of agriculture throughout the country.

Mr. German started his Paper with a contentious point —and it was contentious as between the one Paper and the other—namely, what had been the cost of the Food Production Department. In one of the parliamentary debates Lord Ernle had given certain figures. Major Meacher had also given figures, and had referred to the fact that he thought a remunerative price for cereals would have been far better than any ploughing up order. The family of German were all great fighters. There was Mr. German who had read the Paper that night, and there was also Mr. John German who had for so long been a member of the Council of The Surveyors' Institution and Chairman of the Leicestershire County Executive Committee, and who had been, he thought, more instrumental than anyone in insisting on ploughing up orders. In his opinion it should have been left to the farmers themselves to have said whether they thought the ploughing up order was going to be remunerative or not. It should have been for their own conscience to decide the matter. But, of course, that would not have done in time of war. Many farmers had not implements or labour or facilities for ploughing, and said, "We are very sorry. We should like to do it, but we "cannot, even if it were profitable," and, unless some means had been found to compel them to do it, it would not have been done.

In connection with milk, Mr. German said that milk was 69 per cent. up on the average of 1914, especially as regards labour. That brought him to a point to which he desired to refer, namely, the question of costings. When they had been examining the figures on the Agricultural Milk Costings Committee, they had found that the cost at that time—he had forgotten for the moment which year it was—was about 2*s.* a gallon for the whole year. He had asked a lady expert what she thought the cost of labour was in connection with milk production, and she could not give him the least idea. It was under 4*d.* a gallon. People did not understand that fact—that the cost of the production of milk was chiefly in the foods, and that the labour itself was a comparatively small matter.

Mr. German had asked for suggestions as to remedies. There was one point to which he would like to refer, and that was the question of the duty on beer. Even if agriculture could not be subsidised, there was no reason, to his mind, why agriculture should be penalised. At the present time the duty on beer was £5 a barrel. Before the war it was 7*s*. According to the information given him by a member of a big brewery in London, a quarter of barley would produce a quarter of malt, and it took one quarter of barley as a quarter of malt to make four and a half 36-gallon barrels of beer. The duty on a barrel of beer was £5, so the duty on four and a half barrels of beer was £22 10*s*. The ingredients of those four and a half barrels of beer, as far as barley was concerned, was one quarter, and, therefore, it had to bear its proportional part of the increase of the duty on beer, which amounted to £22 10*s*. on four and a half barrels. In addition to that there were the hops. He would not go into that, but it must affect the question of hops. So that agricultural produce was seriously affected by the high duty upon beer. Not only that, but agricultural labourers —whom they wished to see earning remunerative wages so that they could bear the higher cost of living—were affected because they had to pay an inordinately high price for their glass of beer. Therefore it was touching the agricultural farmers in all ways. In addition to that there was the fact that a larger proportion of English barley was used in the production of the higher qualities of beer. Therefore, if higher qualities of beer were drunk—and they were not being drunk at the present time in consequence of their high price—it would conduce to a larger consumption of barley. That was one point which he desired to bring out in connection with beer. He was not referring to the temperance question; there were arguments on the other side, no doubt, but from the agricultural point of view he considered that farmers were being penalised on account of the present high duty on beer.

Then with reference to the marking of imported meat, he had been given to understand that the Act under which it was necessary to mark imported meat in a shop had been

allowed to lapse. He had written to an official in the Ministry of Health, and had found that that was not the case; but he did not believe that the Act had been carried out or enforced. A short time ago, while at Folkestone, he had been walking down towards the harbour, and had come across a big shop, which, no doubt, supplied the shipping, and had seen some sides of beef exposed for sale described as "home-fed Devon." He was quite certain, from the texture of the meat, that it could not possibly have been home-fed Devon. The question was whose duty it was to look after such matters. Was it not the duty of the Ministry of Agriculture, who ought to represent and look after the interests of agriculture generally throughout the country, to see that the laws were enforced? Certainly it ought to be somebody's duty to see that they were enforced. The difference in price between an English joint and a foreign joint was 6*d.* a pound, and it was not fair either on the producer or on the consumer that when there were Acts of Parliament passed to protect and assist both of them those Acts should not be properly carried out.

Mr. E. A. Rawlence (Member of Council) said he would like to associate himself with the vote of thanks to the readers of the Papers, especially with that to Major Meacher, who had served his apprenticeship in his firm's offices. Major Meacher had passed his examinations with higher honours than any pupil who had passed through their offices.

No one could deny the amount of work which Major Meacher and his colleagues had done in the Ministry of Agriculture; the only complaint that some people had to make was not as to the amount of work done, but the way in which it had been done. There had not been that economy exercised or that wisdom displayed which he thought there should have been. For instance, there was the question of wireworm, about which Major Meacher had had a great deal of trouble. Their forefathers had not been scientific, but at all events they had been extremely practical, and when they had broken up pasture land they pare-burnt

it, *i.e.*, they cut off the turf first, and burnt it, which effectually destroyed wireworms and grubs, and a good crop could then be grown. The amount of loss from which the country had suffered through wireworms and grubs during the war had been enormous; not only had they actually destroyed crops in many cases, but those which did come up had been seriously damaged.

Then, again, in the west of England pasture and dairy lands had been broken up—just a field here and there amongst small dairy farmers, who absolutely knew nothing about growing corn. They had neither ploughs on their farms nor sufficient horse power. They had had to break their land up, however, on the ground that everybody had to do their bit, but they knew nothing at all about arable cultivation, and even when the Agricultural Committees ploughed up the ground for them, they did not know how to cultivate it. That, in some measure, accounted for the unfortunate financial position in which the country now found itself. He trusted that the Ministry would recognise that it was just as valuable to the country to produce milk and meat and cheese. If corn was wanted, large blocks of land should be taken. Corn could be grown by the square mile in Wiltshire and kindred arable areas. It would be far preferable to settle down a colony to cultivate corn on large blocks of land rather than to cultivate bits of land here and there all over the country. The amount of time which had been wasted by officials running about in motor-cars inspecting and finding out where the motor-ploughs were working had been enormous. Mr. German had stated that he had never seen a return of what the actual cost had been. He (Mr. Rawlence) did not think anybody ever would see it, and it was just as well that they should not. The corn had been produced during the war, but the country was having to pay for the cost of its production at the present moment.

With regard to remedies, it was difficult to suggest anything beyond what Mr. German had laid down in his Paper. Agriculturists could not hope for protection; all they could hope for was to obtain mitigation of their burdens. The Agricultural Rates Act, for example, ought to have been

honourably carried out. That had never been done. In the Salisbury Union the farmers were getting about £770 a year allowance, whereas they ought really to have about £8,000 if the principle of the Act were properly carried out. That was one remedy which he thought should be insisted upon.

He also felt strongly about the railway rates. There ought to be a flat rate per mile, and the present privilege of through rates which the foreigner now enjoyed, and which was cutting out English produce, ought to be abolished. For instance, he believed that potatoes could be sent to London from the Channel Islands at a great deal less cost per ton than they could be sent to London from Dorsetshire. It was unreasonable that agriculturists should be handicapped in that way. There should also be some relief in regard to taxation.

The complaint which Mr. Fisher had made about foreign beef and mutton being sold as British should be enquired into. Acts had been passed for the purpose of mitigating the hardships from which farmers suffered, but those Acts had been shelved and not carried out. Agriculturists were entitled to have them carried out, as if they were it would afford a certain amount of assistance to the industry.

The PRESIDENT remarked that as the hour was late he would add no remarks of his own, but he entirely associated himself with the vote of thanks which had been proposed to the readers of the two Papers, which had been not only most interesting, but had led to a truly useful and educational discussion, and he was sure that the members were very much indebted to the authors.

The vote of thanks was then put and carried with acclamation.

Major MEACHER, in reply, thanked the proposer and seconder of the resolution, and the other speakers, for the kind terms in which they had referred to his Paper. With regard to the point raised by Mr. Cobb as to *ex gratia* pay-

ments by the Losses Commission, he believed that that was founded on an old legal principle that no obligation rested on the Crown to pay a subject anything in respect of loss suffered in defence of his country. Neither was there, he believed, any contractural relationship, as it was ordinarily understood, between the Crown and the subject.

With regard to the point raised about loss of profit, they had generally allowed some sum for loss of profit in the case of a farm of which possession was taken, but the members would readily realise that the farms, of which possession had been taken, had so been taken because they had been badly farmed, and because they were not producing food. Therefore the likelihood of profit was generally small compared with the ordinary farm. Where they had been able to do so, naturally they had tried to diminish the claims under that head.

Mr. Harry German also thanked Sir Anker Simmons, Mr. Cobb, and the other speakers, for the kind words they had said about his short Paper. He really did not know whether to take Sir Anker Simmons seriously or not, because he could not understand—and he spoke quite honestly—how a gentleman of Sir Anker's abilities and knowledge could imagine that agriculture was not in as critical a position to-day as it had been in the early part of the bad times in the eighties and nineties. He was assured that in Sir Anker's own county the position was deplorable, and if Sir Anker were to come to 45, Bedford Square, and see the letters which came up to Mr. Allen asking if something could not be done to help the arable farmer of to-day, he would very soon realise the condition in which the farmers themselves thought agriculture was.

Sir Anker, however, did mention one thing which rather gave him hope; he had mentioned the fact that it was advisable that agriculture should close up its ranks, and that the landlord and the farmer—the occupier, whether he were an occupying owner or tenant-farmer—and the labourer should all come together as far as possible to discuss the

present state of agriculture and to see what could be done to bring the position before the Government, and to try to persuade the Government to extend to agriculture all possible help. He could assure the members of The Institution that as far as the National Union of Farmers was concerned—as far as Mr. Donaldson, the President of the Union this year, was concerned—they were using every endeavour to bring about that state of affairs, and if he succeeded to the presidency he was determined to carry on that good work. The leaders of the farm labourers, Mr. Walter Smith, Mr. Beard, Mr. Dallas, and Mr. Walker, had been in constant conference with them, and he hoped and trusted that they would continue to be in conference with them. He considered the only hope there was for the industry was for everyone connected with it to close up, their ranks.

He had been criticised for being a pessimist. It was not his nature to be a pessimist. Mr. Goddard had asked him to read a Paper. He had endeavoured, with the help of Mr. Gill (the union's statistical officer), Captain Fife (the Parliamentary officer), and Mr. Allen, to put the facts, as in their opinion they stood, into the Paper, and nothing else. If he had done anything else he was sorry, but when it was known that there was likely to be a Government inquiry into agriculture, those who were trying to lead the industry should endeavour to confine themselves to absolute facts, and nothing else. The Government should state their policy, whether they were going to help the industry or let it take care of itself. However, whichever the Government did, he was certain that the energy, the thrift and backbone of the English landlord, the English farmer and the English labourer would bring the industry out of the mire. If the Government were to help the industry, it would be good for the country; but if it decided not to do so, it would not be good for the country.

He knew that there would be criticism of his Paper. He liked criticism, but he was not going to make a fighting speech, nor was he going to be in any way contentious about it. Mr. Fisher had referred to his uncle and to himself with

regard to the ploughing up programme. He could only state, as chairman of two district committees during that ploughing up programme, that he had been bitterly opposed to it. He had told Lord Ernle so at Leicester, and had repeated it to him elsewhere. As far as he possibly could in those two committees he had put his foot down, and had been backed by the men behind him, that they would not plough up anything but suitable land, and in one of those committees, where there were over 100,000 acres concerned, there had been few or no claims. If his Paper had done nothing else than bring the present state of agriculture before the members of The Institution, he had been amply repaid.

The meeting then terminated.

PAPER 473.

ZONING IN THE CONTROL OF LARGE CITIES.

By Frank Hunt (Member of Council).

To be submitted at the Ordinary General Meeting of The Surveyors' Institution, on Monday, 8th January, 1923.

The term "zoning" as used for the purpose of this Paper comes to us from America, and is there defined as being, in relation to city planning—

> "action by the State, or by the city under the authority of the State, to control, under the police power,
>
> (*a*) the heights to which buildings may be erected;
>
> (*b*) the area of lots that must be left unbuilt upon; and
>
> (*c*) the uses to which buildings may be put."

Like so many of the words that have passed into current use on the other side of the Atlantic, "zoning" is not a strictly correct word to use in this connection. With us the standard definition of the word "zone" is "a belt or "girdle; any well-marked band or strip running round an "object;" but perhaps it is unnecessary for one to be a purist in this matter as long as it is clear what is the exact meaning attached to the word in our use of it, and so long as it serves a useful purpose.

Americans themselves have felt the inadequacy of the word, and frequently the term "districting" is used as an alternative. This is perhaps a little closer to the real meaning although it still leaves something to be desired.

It would perhaps be well at this stage to emphasise a few of the circumstances where the law and practice in America

differs from that in England. It will have been noticed that in the definition of "zoning" emphasis is apparently attached to the fact that the regulations are made under the "police power." For some time I was at a loss to understand the reason for the straining by those responsible for zoning ordinances to prove that the powers sought to be exercised fell within the "police power." It does not mean that it has any relation to police as the word is understood in this country, but rather to one of two separate doctrines arising out of the American Constitution. A power to make regulations and laws for the comfort and protection of the subject and the good government of the community falls within that section of American jurisprudence known as "police power," and not under the doctrine of "eminent domain." When property is taken under the power of "eminent domain," compensation must be paid to the owner if he can prove damage, but no such compensation is paid for limitations imposed upon the use of a property if these are imposed under the "police power." It appears that in America various State Courts, as well as the United States Supreme Court, have decided conclusively that zoning regulations as adopted in the United States do fall under the "police power." The regulations deal not only with limitations as to the height of and space about buildings, but also as to user, and, it has been stated, they broadly extend to public health, safety, and morals, the public convenience, and the general prosperity of the community. This extension to general convenience has apparently been needed because it was felt that if "police power" extended only to public health, safety, and morals, it might be difficult in certain circumstances to show by conclusive evidence that every detail of a zoning scheme came within a competent exercise of the "police power"; but with the scope so extended, it was hoped that every feature of it could be shown to be a legitimate exercise of the "police power." In the standard form of the State Zoning Act, issued by the Department of Commerce at Washington, the form of words used is "For the purpose of promoting health, safety, morals,

" or the general welfare of the community," and to this there is appended the following note :—

> " *General Welfare.*—The main pillars on which the police power rests are these four, viz., health, safety, morals, and general welfare. It is wise, therefore, to limit the purposes of this enactment to these four. There may be danger in adding others such as ' prosperity,' ' comfort,' ' convenience,' ' order,' ' growth ' of the city,' &c., and nothing is to be gained thereby."

There is the difference also between this country and America in the law of access of light. In this country we are tenacious of every ray of light, and undertake much litigation to assert a right to it. In some of the states of North America (New York, Massachusetts, South Carolina, Maine, Maryland, Pennsylvania, Alabama, and Connecticut) the doctrine of the English law does not prevail, and a right to light cannot be acquired by prescription or the implied grant. In other states (Illinois, New Jersey, and Louisiana) the rule of the English law is adopted.

It is obvious that to avoid inflicting injury on the community such schemes of zoning must be capable of adaptation and modification in the course of time ; and zoning ordinances contain provisions for such amendment, with due safeguards against improper use. Thus in one of the principal American ordinances the Board of Appeal must give their decision, on a petition for change presented by owners of 50 per cent. of any frontage, within 90 days, and if the owners of 20 per cent. of that frontage, or of the frontage immediately behind or immediately opposite, protest against the proposed change, it cannot be made except by the unanimous vote of the Board. The Board of Appeal are, in order to avoid cases of special hardship or difficulty, empowered " to vary any " provision of the plan in harmony with its general purpose " and intent, so that the public health, safety and general " welfare may be secured and substantial justice done."

The question of zoning in the United States has been the subject of a considerable amount of propaganda in the last twelve or fifteen years. Congress made an appro-

priation for the year 1921-2, for purposes covering the promotion of zoning, and Secretary Hoover appointed an Advisory Committee to the Department of Commerce at Washington, which is issuing reports and papers for the encouragement of zoning and for the assistance of those desiring information.

In reading cursorily the American propaganda papers on the subject, there is perhaps some danger of an impression being obtained that zoning is some extreme measure of control, like the prohibition of intoxicating drink, which, though possible of application in the United States, is not suited to the conditions of this country. A closer examination of the matter shows that this is an entire misapprehension, and that much of the control coming under the word "zoning" in America is exercised in this country under the ordinary building laws, and that still wider powers are exercisable in this country under orders made under the town-planning legislation which was initiated in this country by the Housing, Town Planning, &c., Act, 1909.

It must be remembered that in the ancient towns of this country the control of building is a history of slow but sure development over many centuries. I have looked into the history of the London building laws, and as they probably best exemplify the process, and as even a knowledge of the omissions and failures of the past may be some guide in the present and for the future, I will briefly refer to the salient facts.

There is evidence that in the City of London regulations governing the erection of building were in force as far back as about the year 1200. Regulations made in the time of the first Lord Mayor of London (1189-1212) are in existence, and in Bell's *Unknown London*, referring to a house in the City in which a murder was committed, it is stated "like the rest "of the houses it was timber built, but, in compliance with "the City's regulations, stone walls divided the dwelling "from the houses on either side."

These regulations were made, not under legislation, but by the exercise of the powers of the City Corporation, and there appears to have been some difficulty in getting the

regulations observed, particularly that with regard to the use of other materials than wood in the erection of the houses. The use of wood led to the numerous fires which, from time to time, destroyed considerable parts of the City, and which finally led to the catastrophe of the Great Fire of 1666.

The Great Fire of 1666 produced the first building Act for London. Such an overwhelming calamity showed the need for more effective measures of control. About two-thirds of what is now the "square mile" of city was laid waste by the fire, and an exceptional opportunity was offered for the town-planning of what had been a built-up area. A great mind, too, in the person of Wren, was ready to advise as to what that plan should be. His plan for the lay-out of the burnt city is an interesting town-planning proposal of those times, and it is significant to note that the proposal to town-plan London then fell through because of, as stated by the biographer of Wren, "the obstinate averse-" ness of great part of the citizens to alter their old pro-" perties and to recede from building their houses on the " old ground and foundations; as also the distrust in many " and unwillingness to give up their properties, though for " a time only, into the hands of public trustees or commis-" sioners till they might be dispensed to them again with " more advantage to themselves." An historian of London (Noorthouck) says: "Had more powers been assumed in " this respect London might have realised the fable of the " phœnix and rose out of its ashes unrivalled in beauty " throughout the world."

London had instead to be content with the first building Act, "An Act for rebuilding the City of London." Among its numerous provisions it prohibited the building of wooden houses, gave extensive powers to the City Corporation for the control of building, and provided for the appointment of surveyors. I believe the present district surveyors claim to be the official descendants of the "surveyors or super-" visors" appointed under that Act in 1667.

The regulations made by the City Corporation under the Act provided for a minimum width of 14 feet for all straight and narrow passages which had been or should be

staked out by the surveyor to that width, but otherwise the Act related mainly to the matters of stability of buildings and safety from fire, and not to matters which are now the principal subjects of town-planning and zoning orders.

The Act of 1666 was supplemented by several Acts up to 1774, when all of these were repealed and fresh provisions made by the building Act of that year. The Acts partly or wholly repealed by the Act of 1774 are as follow :—

1666 (19 Car. 2, c. 3).

"An Act for rebuilding the City of London."

1706-7 (6 Annæ, c. 31).

"An Act for the better preventing mischiefs that may happen by fire."

1708 (7 Annæ, c. 17).

"An Act for making more effectual an Act made in the sixth year of her Majesty's reign, for the better preventing of mischiefs that may happen by fire."

1724-5 (11 Geo. 1, c. 28).

"An Act for the better regulating of Buildings, and to prevent mischiefs that may happen by fire within the Weekly Bill of Mortality, and other places therein mentioned."

1759-60 (33 Geo. 2, c. 30).

"An Act for widening certain Streets, Lanes, and Passages, within the City of London, and Liberties thereof, and for opening certain new Streets and Ways within the same, and for other purposes therein mentioned."

1763-4 (4 Geo. 3, c. 14).

"An Act for the better regulating of Buildings, and to prevent mischiefs that may happen by fire within the Weekly Bills of Mortality, and other places therein mentioned."

1765-6 (6 Geo. 3, c. 27).

"An Act to explain, amend, and render more effectual, the powers of an Act, made in the thirty-third year of the reign of his late Majesty, intituled, An Act for

widening certain Streets, Lanes, and Passages, within the City of London, and Liberties thereof; and for opening certain new Streets and Ways within the same; and for other purposes therein mentioned."

1765-6 (6 Geo. 3, c. 37).

"An Act to explain, amend, and render more effectual, an Act made in the fourth year of his present Majesty's reign, for the better regulating of Buildings, and to prevent mischiefs that may happen by fire within the Weekly Bills of Mortality, and other places therein mentioned."

1772 (12 Geo. 3, c. 75).

"An Act for the better regulation of Buildings and Party-walls within the Cities of London and Westminster, and the liberties thereof, and other the parishes, precincts and places in the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bon and Paddington, Saint Pancras and Saint Luke at Chelsea, in the County of Middlesex, and for the better preventing of mischiefs by fire within the said cities, liberties, parishes, precincts and places; and for amending and reducing the laws relating thereto into one Act, and for other purposes."

The Act of 1774 was amended by an Act passed in 1810; and in 1844 all previous provisions were superseded by the Metropolitan Buildings Act, 1844, which may be regarded as the first modern building Act. From a town-planning point of view it is important as being the first Act making provision for a general minimum width of streets, namely, 40 feet, which is still the minimum requirement.

The Act of 1844 was superseded by the Metropolitan Building Act, 1855, after which there were various amending and supplementary Acts, until these were all superseded by the provisions of the London Building Act, 1894, the principal Act now governing the erection of buildings in London.

The first general provision with regard to the general

line of building in London was contained, not in a building Act, but in the Metropolis Management Act, 1855, afterwards amended by the Metropolis Management Amendment Act, 1862. There had, however, already been statutory regulations applying to certain streets, the principal of which are Marylebone Road, Euston Road, and Pentonville Road. The provisions of the Acts of 1855 and 1862 have been replaced by the provisions in the London Building Act, 1894.

The case of London is an example of the development of building regulations from early times, culminating in the town-planning powers of the present day. In the case of other cities in this country there have no doubt been something like corresponding regulations and statutory provisions, though London, owing to its antiquity and the extent of its development, with its position as the capital and seat of the Government, has probably a longer history in building control than any other town in the country.

With the town-planning provisions of the Housing, Town Planning, &c., Act, 1909, a new departure was made, and though these provisions are at present statutorily included as part of our housing legislation, they are more properly a development of building legislation, dealing, as they do, amongst other things, with the width of streets, the fixing of the building line, space about buildings, and the height to which buildings may be carried. They do not, it is true, deal with the primary objects of building regulations—stability, and security from fire—but these probably after centuries of development have now reached something like finality.

The powers of zoning under the town-planning Acts are very wide, and it will, perhaps, enable the clearest idea of the position to be obtained by taking some examples of the requirements under zoning in the United States, and see how they compare with the control exercised under the building Acts in London and which may be exercised in undeveloped areas by an order under the town-planning Act.

The first purpose of zoning in America, as above defined, is the limitation of height of buildings. This, owing to the tendency there to the erection of "sky-scrapers," was

probably a matter of more urgency than in this country where it has not been the practice to carry buildings to such great heights. In most parts of America, too, the right of ancient lights is not obtained by prescription as it is in this country.

Height limits are prescribed either (*a*) in proportion, to street width, or (*b*) by fixed heights. The limits in New York and St. Louis, examples of both methods, are as follow :—

New York.		*St. Louis.*	
Zone 1	$2\frac{1}{2}$ times width of street	Zone 5	150 feet
„ 2	2	„ 4	120 „
„ 3	$1\frac{1}{2}$	„ 3	80 „
„ 4	$1\frac{1}{4}$	„ 2	60 „
„ 5	1	„ 1	45 „

As compared with these the general limit under the building Acts in London (so far as buildings in streets formed or laid out since 1862 and of a less width than 50 feet are concerned and except as regards existing buildings or rebuilding on the site) is once the width of the street, that is, the same as the highest standard in New York. There is, further, a limit, regardless of width of street, of 80 feet and two storeys in the roof (a total of about 100 feet). Premises rebuilt are not subject to this limitation, but as there are few old buildings of a greater height, this maximum (about 100 feet) may be regarded as the general limit in London. It is much lower than the greatest height allowed in New York, which is $2\frac{1}{2}$ times the width of the street, or in St. Louis, where the limit is 150 feet.

As regards height, therefore, the standard for zoning in American cities appears to be much lower than under the ordinary building regulations in London.

The second purpose of American zoning is for the maintenance of space about buildings. For this purpose zones or districts are prescribed with varying requirements as to the area of sites to be left unbuilt upon.

Space limits are prescribed either (1) in relation to the height of the building, or (2) by actual space, or (3) in rela-

tion to the area of the building plot or a combination of these. The following particulars for St. Louis give some indication of the standard of American zoning under this head :—

St. Louis.

Zone.	Proportion of Plots that may be Covered.			
	Corner Plots.		Other Plots.	
	First Storey.	Above First Storey.	First Storey.	Above First Storey.
	per cent.	per cent.	per cent.	per cent.
A	100	100	100	—(*a*)
B	100	90 (*a*)	100	80 (*a*)
C	100	75 (*a*)	100	60 (*a*)
D	60 (*b*)	50	50 (*b*)	40

(*a*) Rear yard of at least 10 feet required.
(*b*) Rear yard of at least 15 feet and side yard of at least 4 feet required.

In New York there appears to be a somewhat similar standard, the proportion of the plot which may be covered in the five zones varying from 100 per cent. to 30 per cent.

In London the building Acts require in the case of "domestic buildings" or dwelling-houses a minimum space at the rear of 150 square feet, with a minimum depth across the whole width of 10 feet. While this is better than in the inner zones in New York and St. Louis (which, no doubt, include mainly non-domestic buildings), it is lower than is required in the outer zones. The requirement in the outer zones in these American cities, is, however, much lower than in a town-planning scheme in this country. The Ministry of Health's standard for State-assisted housing schemes is 12 cottages to the acre "net area" (excluding roads and large open spaces). On this standard about $12\frac{1}{2}$ per cent. of the building plots would be covered. With as many as 20 cottages to the acre the proportion covered would be about one-fourth. Under town-planning schemes

a higher standard than 12 houses to the net acre is sometimes prescribed. In a Memorandum recently issued by the Ministry of Health it is stated that "twelve, ten and eight "houses per gross acre are common density requirements "according to the nature of the neighbourhood, but no fixed "standards can be laid down." The number in the Ruislip-Northwood scheme, in the various residential zones, is 4, 6, 8 and 12 houses per acre over the whole of a land unit (including road area), a land unit consisting, generally speaking, of land belonging to one owner, varying in size, but not exceeding 7 acres.

The third, and perhaps the most important head of American zoning, is that of the control of user by the fixing of zones in which a particular class or classes of building are allowed and other classes excluded. Zoning of this kind does not lend itself to the prescription of areas within concentric circles to the same extent as zones for the control of height and space about buildings. Instead of concentric zones from a general centre there are areas or neighbourhoods prescribed for the location of various classes of buildings.

The general divisions appear to be (*a*) residential; (*b*) business; (*c*) light industry; (*d*) heavy industry; and (*e*) unrestricted districts. In the St. Louis zone the user districts are as follows:—

(1) First residence district ...	One-family houses.
(2) Second residence district	All residences and tenements, hotels, institutions, &c.
(3) Commercial district (usually principal streets) ...	Stores and shops.
(4) Industrial district ...	Forms of industry not considered objectionable because of noise, odours, smoke, and dust.
(5) Unrestricted district (chiefly along railway lines and river front) ...	All forms of user except nuisances regulated by ordinance.

Under this scheme the first zone is limited to "one-

"family" houses, and presumably the sub-division of houses into tenements equally with the erection of tenement houses would not be permitted. The other areas follow the natural divisions of the various classes of user.

While zoning for this purpose in America is applied to built-up as well as to undeveloped land, the provisions, it appears, are generally not retrospective, so that, while they prohibit new user not in accordance with the regulations, they do not interfere with existing user.

Under the development of town-planning in this country, in the future there is not likely to be much that is new of what can be properly described as zoning in regard to height of buildings, because it will hardly be necessary, as the general regulations will secure such control of height as to make anything like systematic divisions of an area into various height zones unnecessary.

In regard to space about buildings the limitation on the density of buildings, graded according to the character of the locality, will have the same result as American zoning for this purpose; and, as has been indicated, is likely to prescribe requirements in excess of the requirements of American zoning.

It is as regard the control of user that zoning in the American sense can be applied most extensively in this country under town-planning orders.

In a paper issued by the Ministry of Health in April, 1921, the following suggestions as to zoning in connection with town-planning schemes are made:—

> "*Zoning.*—In regulating the character of buildings it will generally be found advisable to allocate separate districts for different purposes, at any rate in town-planning areas of considerable size. Land with special amenities will naturally be reserved for residential purposes, in the absence of special reasons to the contrary, while the existence of good facilities for transport by rail or water will indicate the portions of an area primarily suitable for industrial use.
>
> "The actual allocation of areas will be a matter to be settled in the light of local conditions and circumstances. A simple division into residential, business (*i.e.*, shops,

offices, and the like), or industrial, will often be sufficient; but in large towns some other divisions may be found desirable, *e.g.*, the provision of separate areas for heavy and light industries respectively, or for shops.

"It will have to be considered in each case whether a particular area should be restricted to its predominant use. It may be found expedient, for instance, in some cases to reserve residential areas exclusively for this purpose. It will probably not as a rule be necessary to reserve the industrial areas exclusively for industrial use, except in special cases (*e.g.*, the banks of a navigable waterway), where the peculiar suitability of the site would make it wasteful and contrary to the public interest generally to permit other forms of development.

"It will usually be found necessary to take power to authorise buildings other than those generally contemplated in the particular area with the express consent of the Council. Where such authority is taken in the scheme, provision should be made for a right of appeal to the Minister against the decision of the Council."

The zoning possible under the town-planning Acts relates only to undeveloped land, the statutory definition being "land which is in course of development or appears likely "to be used for building purposes." Where, however, it is desirable for the general objects of the scheme some land not coming within this definition may be included.

The question of the application of town-planning provisions to built-up areas is an important matter for consideration. Two important reports—that of the Royal Commission on Housing in Scotland, 1917, and of the Departmental Committee on Unhealthy Areas, 1921—have recommended such an extension of the Act. The Royal Commission on Housing in Scotland in their report say :—

"1874. The powers of the local authority to ensure proper development of their presently unbuilt-upon areas by operations under the town-planning section of the 1909 Act are so far an advance upon those previously possessed, and are capable of being exercised without undue payment of compensation, that we have

considered whether the areas already built upon should be brought into line with the unbuilt-upon areas which are controlled by suitable town-planning regulations. We have concluded that there are such obvious advantages in an extension of the principles of the town-planning section of the 1909 Act, as applied to an undeveloped area, to a congested area, that those principles should be extended to the town-planning of built-up areas in order that future developments in such areas may be suitably regulated.

"1875. It should be competent to effect the replanning without the owners of slum and other property being permitted to benefit by the improvement at the public expense. The amended legislation should provide that no new building should be erected within the built-up area, and no alteration to an existing building should be made, unless such new building or such alteration conforms with the new town plan; that is to say, no new interest should be permitted to be created that would ultimately need to be bought out at the public expense. Where an owner desires to demolish or rebuild, the local authority should have power to purchase, under special safeguards for the public purse; that is, on the basis of compensation recommended in chapter xxiv. The local authority should have power of compulsory excambion as amongst the various owners, and should have vested in them the ownership of the solum of streets that may be closed under the town-planning scheme."

The basis of compensation in chapter xxiv., referred to in the extract, has been, in its main particulars, given effect to by the Acquisition of Land (Assessment of Compensation) Act, 1919.

The Departmental Committee presided over by Mr. Neville Chamberlain to consider slum areas endeavoured to follow this line of thought, and apply it to slum areas and the immediate neighbourhood which was likely to develop into slums, and their recommendations on this point are as follows:—

"(1) That the town-planning powers should be extended to enable local authorities to prescribe the

lines of main traffic routes and to arrange for 'zoning' built-up areas;

"(2) That reconstruction schemes under Parts I. and II. of the 1890 Act should conform to a plan of the whole town concerned, together with its surrounding area, such plan to provide for the ultimate distribution of dwelling-houses, commercial and business premises in the area."

With regard to the town-planning of built-up lands they say—

"*Town Planning Built-upon Lands.*—We believe that interest in the subject would be greatly stimulated if town-planning powers were extended to land already built upon, as is the case in Canada, and to some extent in the United States. It is not necessary to introduce any complex conditions or procedure, but local authorities should have the power in the public interest to prescribe the lines of main traffic routes, and also to arrange for 'zoning' in a built-up area. In this connection we should like to call attention to the evidence of Mr. Lawrence Veiller, Secretary to the National Housing Association of the United States. Mr. Veiller informed us that the practice of 'zoning'—that is of dividing a town into a number of districts and then prescribing for each district certain restrictions upon the user and height of buildings as well as the proportion of site to be occupied by them—had been adopted in some fifteen cities, of which the most important is New York, and that it had proved a popular and practical innovation. It is significant that where zoning has been adopted after careful preparation of public opinion no compensation has been paid, and no complaints have been made public. It has, in fact, been found that values have been stabilised instead of being disturbed by the process."

The first purpose of town-planning of built-up areas recommended by the Committee is in order to prescribe the main traffic routes. The object would be to secure by town-planning such new streets as are now constructed as street improvements, and it is an important question as to how far

such town-planning would be economical and efficient for the purpose. As examples, in London, Charing Cross Road and Shaftesbury Avenue may be taken, in order to consider how far the conditions would involve difficulties in such circumstances in case a town-planning scheme were put into effect to secure such main traffic thoroughfares. These were constructed by the Metropolitan Board of Works some considerable time ago, but they, no doubt, are typical of the conditions still existing in London in districts of a similar character.

Information as to the ownership of property at the time when the streets were constructed is available, and it reveals an extraordinary complexity in the number of interests involved. In some cases the new streets absorbed the whole, or practically the whole, of a property, whilst in other cases little or no part was taken by the actual street sites. The plots, according to the existing ownership, on the frontages to the new street would be, as a rule, quite inadequate for the development for premises of a character suitable to such streets.

In addition to the number of interests that would have to be dealt with, there is the difficulty of synchronising sufficiently the work of re-development to avoid great loss. While it would be easy to lay down a plan to which all building should conform, the practical difficulties of giving it effect in conditions of such complexity would be great, and it may be doubted whether a new street would be secured more cheaply, or anything like so expeditiously, by town-planning as compared with the present method of purchasing outright the property that it is considered necessary or desirable to acquire, and selling or letting the surplus land not required for the site of the street.

It is probable that the difficulties which would have militated against the successful carrying out of a scheme of town-planning in the West End would equally apply in connection with slum clearance areas, as experience has always shown the number of separate owners to be great, and the holdings to vary considerably in size. The reconstruction would involve very complicated legal proceedings, which, under the present condition of our conveyancing law, render

it impracticable, on the score of cost alone, to effect any scheme of rearrangements of holdings.

As already explained, the American schemes are based upon the exercise of the "police power," which involves the payment of no compensation. The English code has proceeded on different lines in town-planning an unbuilt-upon area; the interests concerned are much less complicated than those met in dealing with a developed district, and in a large proportion of the land covered by a town-planning scheme the building element is hardly apparent. Town-planning schemes, therefore, under English legislation present the simplest phase of this problem, and yet the Legislature has provided that, if damage can be shown by an owner arising from the making of the scheme, compensation is payable by the authority. It is true that claims for compensation cannot be made in respect of any restrictions imposed similar to those which existing legislation or by-laws could demand; and it is specifically provided that compensation cannot be awarded if the provisions of a scheme prescribe, with a view to securing the amenities of the area, the space about buildings, or limit the number of buildings to be erected, or prescribe the height and character of the buildings, such provisions being considered by the confirming authority to be reasonable.

The general attitude of the legislation on this question of compensation was incidentally considered in the Court of Appeal in 1920 on a case arising under the Town-Planning Scheme for the Ruislip-Northwood area. Under the scheme a building line was defined for the High Street, which had the effect of seriously and injuriously affecting a long, shallow plot of land which the owner considered ripe for the erection of shops, and after proceedings before the Arbitrator and the High Court, the case ultimately reached the Court of Appeal. In the course of the judgment of Lord Justice Eve he discusses the question of the right of an owner under the Town Planning Act to compensation. For this purpose the following extract is illuminating, not only as representing his view, and the fact that he quotes decisions of eminent judges in times past with approval, but by reason also of the fact that those have been the judgments of other Courts on similar questions on previous occasions:—

"In connection with this and the next question it must be borne in mind that we are here considering an Act which expressly and in terms recognises the right to compensation in respect of property injuriously affected by the scheme, and that, in examining these parts of the Act which create exceptions, the canon of construction applicable is that they must not be deemed to take away or extinguish the right unless it appear by express words or by plain implication that it was the intention of the Legislature so to do. *Western Counties Railway Company* v. *Windsor and Annapolis Railway Company*. Brett, M.R., in *Attorney-General* v. *Horner* states the rule in these terms: 'It is a proper rule of construction not to construe an Act of Parliament as interfering with or injuring persons' rights without compensation, unless one is obliged to so construe it. If it is clear and obvious that Parliament has so ordered, and there is no other way of construing the words of the Act, then one is bound to so construe them, but if one can give a reasonable construction to the words without producing such an effect, to my mind one ought to do so.' Lord Davey, in *Commissioner of Public Works* (*Cape Colony*) v. *Logan* says: 'Such an intention,' *i.e.*, an intention to take away property without any compensation, 'should not be imputed to the Legislature unless it be expressed in unequivocal terms. This principle has frequently been recognised by the Courts of this country as a canon of construction.' And finally, Bowen, L.J., in *London and North Western Railway Company* v. *Evans* sums up the matter thus: 'The Legislature cannot fairly be supposed to intend, in the absence of clear words showing such intention, that one man's property shall be confiscated for the benefit of others or of the public without any compensation being provided for him in respect of what is taken compulsorily from him'; and a little further on he adds that this maxim and another are 'doctrines of sound sense and obvious justice, to be borne in mind in dealing with legislation which cannot be supposed, unless it so explicitly states, to neglect what is . . . . natural justice.'"

In the light of the practice of Parliament and the judicial interpretations of the general attitude on the subject, it is almost certain that a zoning proposal would carry with it, in contradistinction to the American system, compensation to a large extent.

With regard to the application, in its simplest form, of the principles of user-zoning to substantial built-up areas, it might safely, I think, be stated that in London, as well as in other large towns, there are considerable areas practically limited to residential purposes, with premises, of course, for the necessary ancillary purposes, in the interests of which it would be desirable that the present unrestricted right of user should be controlled. This is, perhaps, eminently desirable just now when large estates are being broken up and numbers of owners substituted for one. I could quote a recent example where about 70 acres in London, almost entirely residential property, was offered for sale. The lessees or occupiers of the houses were given the first opportunity of purchase, and about two-thirds of the property was disposed of in that way. The result was that where there was one ground-owner, able to exercise control of user in the interests of the general estate, there are now some hundreds of owners, each free to use his particular property for the purpose he finds most advantageous, regardless of the effect on other property.

An examination of the prices obtained indicates that even in a comparatively central estate of this kind a town-planning scheme limiting user might have been made without compensation. The estate was originally built between 1840 and 1847; the leases of the existing houses had from 18 to 25 years to run; and, generally, the prices obtained only represented the value of the property according to present use.

Since the date of the development of that estate a large part of the county of London has been built. In 1851 the population of the county was 2,363,341, or slightly more than one-half the present population of 4,484,523, while in area the proportion developed since 1851 is greater than one-half. It therefore seems probable that a large part of the built-up area of the county, perhaps much greater than

one-half, could be zoned for user without involving payment of compensation.

In the rest of built-up areas, where the property has obtained a potential value for other purposes, restriction of user would be the subject for compensation, and if carried out extensively would involve considerable cost. On the other hand such limitation of user would have some effect in increasing the value of other property; so that, while the town-planning authority would bear all the loss in respect of the injury inflicted, the private owners would reap the profit from the operation of the scheme without a very extensive scheme of betterment. In such areas it would therefore be necessary to proceed with caution.

It may be concluded from this that the possibilities of zoning in the control of even the built-up portions of large cities in this country are considerable, particularly in regard to user-zoning.

For user-zoning it is necessary to have full information of the present use of property, and for this purpose careful surveys are necessary to be made. In reading the American papers on the subject one is struck by the thoroughness with which the survey is carried out, and the completeness of the maps and studies which are prepared for the purpose of zoning ordinances.

In 1904 a user-survey of the central parts of London was made by the London County Council at the request of the Royal Commission on London traffic. This was before the question of zoning and town-planning came to be the subject of general discussion, and the categories of user under which the information was prepared were as follow:—

(1) Commercial and industrial (including private buildings);
(2) Residential;
(3) Commercial and residential mixed (including houses and shops and similar property);
(4) Railways and canals;
(5) Public open spaces;
(6) Land not built upon (including private squares, vacant building sites, &c.);
(7) Streets.

The information was condensed and indicated on a 6-inch map which is shown on Plate CVI., sheets 1 and 2, in Volume 6 of the Report of the Royal Commission, while interesting statistics of the proportion of each class of property in the wards and parishes of the area dealt with and statistics under other heads are given on pages 758-779 of Volume 3 of the Report of the Royal Commission.

It is on the advantages of user-zoning that the American reports lay the greatest emphasis. They point to the disadvantages of uncontrolled development and to the results of the intrusion into choice residence districts of the "apartment house," the public garage, and even of industrial premises, possibly carrying on some noisy, dusty, or offensive process. By user-zoning this condition is obviated, and, it is claimed, great advantage is secured in the stabilisation of property values, the protection of health and comfort, and the avoidance of waste by the scrapping of buildings in "blighted districts."

Our experience of uncontrolled development, subject to existing legislation as to height of buildings, width of way, &c., has resulted, in the case of London, in a dense mass of building intermixed without any regard to character, user, or suitability of position for the various purposes, extending over a distance of nearly 25 miles north and south and east and west, with inadequate provision for open spaces, recreation, or general amenities. Under a well-considered zoning scheme sites most suitable for industry would have been restricted for that purpose, the best sites for residences would have been used mainly for such purposes, and the creation of slums due to bad arrangements, narrowness and overcrowding of buildings on sites, would have been rendered impossible. All restrictions in the past to prohibit the growth of a town have failed, as witness the ineptitude of the attempts in the time of Elizabeth and Cromwell; and it would appear that the only hope of controlling the development of big cities in the future would be the careful and systematic town-planning and zoning of undeveloped areas and the application of the same procedure, as far as practicable, to built-up land, with the view of controlling its present use and its re-development in the future when it comes to be rebuilt.

AT

THE ORDINARY GENERAL MEETING

Held on Monday, January 8th, 1923,

A DISCUSSION took place on a Paper entitled

ZONING IN THE CONTROL OF LARGE CITIES,

By Frank Hunt (Member of Council).

J. McCLARE CLARK (President) in the Chair.

Mr. JOHN WILLMOT (Past-President), in proposing a vote of thanks to Mr. Hunt for his Paper, said he would like, first of all, to say that he was in agreement with Mr. Hunt as to the desirability of taking the Paper as read so that a longer time might be available for discussion.

The subject that Mr. Hunt had introduced was a very big one. Mr. Hunt set out what had taken place in America with regard to zoning. He (Mr. Willmot) thought that everyone who had studied what had been done there was pretty well satisfied with the results. Too much importance, however, should not be given to those results, as the discussions on zoning which had taken place at the Town Planning Institute, as well as the facts set out in Mr. Hunt's Paper, showed that the conditions in America were not the same as they were here.

In America a scheme for zoning dealt with the whole of a town, whereas in this country a town-planning scheme applied only to areas in course of development or that appeared to be likely to be used for building purposes. That proviso in the Act practically excluded all built-up areas from being included in any scheme.

It was desirable that local authorities should have power to proceed on the lines of dealing with their areas as a whole rather than in piecemeal fashion, and he was glad to notice that Mr. Neville Chamberlain's Departmental Com-

mittee and other committees which had been set up had recommended that extension of powers should be obtained from Parliament to provide for that.

He was not particularly cognizant with zoning, but had had some experience in connection with town-planning schemes. It seemed to him that what they had to avoid in all schemes was too much rigidity; what was wanted was flexibility, so that it might be possible to alter and amend a scheme if and when it was apparent that development of the area was not proceeding on the lines that had been predicted.

They all knew what often happened in towns; he had seen it in the town with which he was most concerned, the city of Birmingham. It was thought and hoped that the development for residential, business or manufacturing purposes would proceed in particular directions. Their hopes and expectations were frequently disappointed, and when one looked back after forty years of practice and recollected what had been said would happen in the development of certain districts and then saw what had actually taken place, it showed how hopeless it was to attempt, in the majority of cases, to lay down rigid lines for development which would stand the test of time.

Now, in America there appeared to be a good system for dealing with regulations imposed in zoning schemes, which altered circumstances made it desirable to amend. A board of appeal was set up to which owners of property who were aggrieved by the regulations might appeal. Mr. Hunt set out in his Paper how that arrangement worked; it seemed very reasonable and proper that owners desirous of using their land for a purpose which the regulations did not permit, but which was not against the interest of the community, should be able to get the regulations amended accordingly without difficulty or delay.

He was very interested to read in the account of the New York zoning scheme of 1916 that a great amount of care and time was given to its preparation; constant consultations with owners and others took place, the views of all parties were considered, and every interest was taken into account;

he felt sure that attention was the reason why the result was so successful. It had been said that the value of property in New York by reason of the zoning had increased by two millions, and that he could well understand.

Mr. Hunt had given them a very interesting *resumé* of the Building Laws and Building Acts which applied to the great city of London, and he commenced with what happened after the Great Fire in 1665, when the city was devastated. He referred to the plans which were prepared at that date for rebuilding the city, and mentioned that one of the present acting surveyors considered it was not a misfortune that the plans were not carried out. He did not know about that, and he did not know, of course, whether the historian to whom Mr. Hunt had also referred was correct when he stated the reasons why the proposal fell through, but he had looked up what Pepys had to say in his diary on the subject, and Pepys gave them the reasons why the scheme fell through, viz. :—

> "25*th November*, 1666.—Mr. May tells me the design of building the City do go on apace, and by his description it will be mighty handsome and to the satisfaction of the people, but I pray God it come not out too late."

Just like dear old Pepys! Well, at that time (he noticed in the diary) Hollar, who was an engraver, was employed by the King to complete his map showing the extent of the Great Fire; and also the reason given by Pepys for what he (Mr. Willmot) thought they might conclude was the failure of Wren's scheme :—

> "24*th February*, 1667.—Lord Mayor asks the King's directions about measuring out the street according to the new Act for building of the City. Lord Mayor says way proposed in Parliament by Col. Birch the best, to have chosen some persons in Trust, and sold the whole ground and let it be sold again by them with preference to the old Owners, which would have caused the City to be where these Trustees pleased, whereas now great differences will be, and the streets built by fits and not entire till all differences be decided."

The desirability of purchasing the property through which new streets have to be constructed, referred to by Pepys, coincided with the opinion expressed by Mr. Hunt in his Paper that it was probably better, and certainly more expeditious, to purchase the property outright, construct the street, and then sell the surplus land, rather than to attempt to deal with the matter under the provisions of the Town Planning Act.

Had Colonel Birch's proposal, referred to by Pepys, been embodied in an Act of Parliament, the plan for laying out the city on town-planning lines would no doubt have been adopted. Some steps must, however, have been taken to secure better main traffic routes as shown by this further note of Pepys:—

> "29*th March*, 1667.—The great streets in the City are marked out with piles drove into the ground, and if ever it be built in that form with fair streets it will be a noble sight."

Well, it wasn't to be. Mr. Hunt referred to the Act of 1667 as the first building Act, and he gave some instances of the regulations which were imposed under it. He (Mr. Willmot) might be wrong, but it occurred to him that the Act was the first town-planning Act, because he thought it must have contained a proviso for betterment, as he found the following entry in "Pepys' Diary," under date of December 3rd, 1667:—

> "He (Sir Richard Ford) tells me also, speaking of the new street that is to be made from Guild Hall down to Cheapside, that the ground is already most of it bought. And tells me of one particular, of a man that hath a piece of ground lying in the very middle of the street that must be, which, when the street is cut out of it, there will remain ground enough, of each side, to build a house to front the street. He demanded £700 for the ground, and to be excused paying anything for the melioration of the rest of his ground that he was to keep. The court consented to give him £700, only not to abate him the consideration, which the man denied:

but told them, and so they agreed, that he would excuse the City the £700 that he might have the benefit of the melioration without paying anything for it.

"So much some will get by having the City burned. Ground by this means, that was not worth 4*d.* a foot before, will now, when houses are built, be worth 15*s.* a foot. But he tells me of the common standard now reckoned on, between man and man, in places where there is no alteration of circumstances, but only the houses burnt, there the ground, which with a house on it did yield £100 a year, is now reputed worth £33 6*s.* 8*d.*; and that this is the common market price between one man and another, made upon a good and moderate medium."

So it appeared at that time the ordinary common standard was that the site was worth one-third of the whole property. Pepys said the increase in value was from 4*d.* to 15*s.* a foot. He (Mr. Willmot) thought it must mean foot frontage, as 15*s.* a square foot worked out at £32,670 an acre. He did not suppose land was worth that then.

The next subject Mr. Hunt referred to was the London Building Acts. He did not propose to refer to these because he did not in the least understand them. He would like, however, to refer to one matter they had to bear in mind in zoning and general town-planning—that was the question of compensation. Mr. Hunt had dealt with it and set out a very interesting judgment of Lord Justice Eve on the subject, which laid down the general principles on which owners of property were entitled to compensation in cases of injury. But he could not help thinking, inasmuch as Parliament had distinctly laid down that no compensation was recoverable in respect of regulations prescribing the space about buildings, limiting the number of buildings, the height or character of the buildings, there were no expectations that owners would get compensation except possibly in cases where works had to be carried out in order to secure those particular objects.

Personally he thought in some cases they were subjects

which were eminently proper for compensation. Incidently he would draw the attention of members to the Law of Property Act which came into force on 1st January, 1925, Section 90 of which empowered an official arbitrator or the court to modify or discharge the restrictive covenants affecting freehold and those affecting leasehold. That was a very useful provision, and he was sure it was gratifying to them all to reflect that the official arbitrators were surveyors of high standing and were both honoured members of The Institution. He hoped they might have a good deal of the work to do in connection with the proviso.

Restrictive covenants had in some cases become oppressive owing to a change in the character and development of the district since the covenants were imposed. The fact that it would in future be possible to apply for a relaxation of covenants so as to allow the buildings to be used for the purpose for which, owing to altered conditions, they were most suitable, should have the effect of stabilising the property in the district, and as a consequence adding to its value.

All the objects they had in view should lead to the improvement of their towns and districts; they had only to act with care and judgment, and not on too rigid lines, so as only to impose conditions which would be for the benefit of all, and he felt sure that every member of The Institution would work on those lines in order that they might get the greatest happiness for the greatest number.

They were all extremely obliged to Mr. Hunt for introducing the subject, and he had the greatest pleasure in proposing a most hearty vote of thanks to him.

Mr. Frank Elgood said he had great pleasure in seconding the vote of thanks. He felt it a great honour to have been allowed to intervene and to have the privilege of speaking early, especially when he saw present so many of the most eminent members of the Town Planning Institute, which really commanded the best town-planning brains of the country, and also when he saw many of the younger members of The Institution whose minds were probably more plastic than those of some of their elders, and more

ready to absorb the somewhat novel methods of development of towns and the open country. He wished to suggest that whatever might be the opinion of the result of zoning (dealing with zoning under the general terms in which Mr. Hunt had dealt with it), the general underlying principles must be accepted by all surveyors, as indeed they had already been accepted, and were being acted upon in many cases. He had particularly in mind cases of property where surveyors were acting in the interest of private owners. To put it quite shortly, it seemed to him they might look upon zoning as nothing more or less than applying restrictions to all land for the benefit of all in the same way as a landowner was able to enforce restrictive covenants on some portions of land for the benefit of a few.

When one came to think of it, it did seem rather hard that the community, acting through the State or the local authority, should not have the same rights in the place of, or, at any rate, side by side, with those which were exercised by private owners. He doubted really whether in that room there was any need for the justification of zoning; but if there were, he thought it must be obvious that all land ought to be put to the best use for which it was adapted and the use which would best benefit the community. General opinion, at any rate, taking a long view of things, would tend towards the view that the interests of owners and the community in those matters were really not different; they were really identical, although owners, perhaps, did not see things in the same light as a public body representing the community.

Now he quite agreed—and it was a point they should get quite clearly into their heads—that there was a vast difference between zoning as applied to built-up areas and as applied to undeveloped land, and he rather thought the author of the Paper had intended very definitely to lead them right in their discussion towards the effects of zoning in regard to built-up areas. Although a different thing from zoning in undeveloped areas, it was not in every way more difficult. Mr. Raymond Unwin, in a most admirable Paper summing up the discussions at the Town Planning

Institute last session on "Zoning," suggested that one should remember that it was an easier matter in some respects to deal with zoning a built-up area because the predominant use to which the land was actually applied was known, and the potential use was probably foreshadowed in some form or another.

Mr. Hunt had given a very interesting argument in regard to the comparative effect of using town-planning methods in regard to the making of new roads or improved roads through a built-up area as compared with working under a special Act. But he had somewhat misinterpreted the views of Mr. Neville Chamberlain's Committee in that respect, because he said that the view of the Committee was that the first principle of town-planning as applied to built-up areas would be to settle the lines of the main traffic roads. It was quite true that that was mentioned first, but it was coupled very definitely with the principle of zoning, and it seemed to him they must quite clearly understand that zoning was a very essential part of determining the lines of the main traffic routes. The problem of main traffic roads obviously depended principally upon the use of land which was served by traffic roads, and it also depended upon the density of the population and whether it was a residential or an industrial area. For instance, as regarded those who had been agitating—not very successfully, he was glad to say—for higher buildings in London. Did they realise—he was sure they did—that this would have the effect of concentrating a very much larger number of people on a limited area of land? If they did realise that, they said nothing of the improvement of transport or of traffic facilities that would be involved thereby. Any zoning in built-up areas must include not only height and area zoning but user zoning as well.

Now, he was very glad to see that Mr. Hunt did not draw attention in his Paper, except at quite short length, to the question of compensation, and he hoped they would keep away from compensation except perhaps remembering it was mentioned incidentally. He knew how very awkward it was to keep the subject of compensation out of discussion by surveyors, but let them just try and find out that night

whether and to what extent zoning was a real practical advantage, quite apart from whether anyone might suffer for the time being. At any rate, he ventured to say that any compensation which had to be paid in respect of zoning in regard to the matters which had been mentioned, namely, height, density, and user, would be perfectly fatal. He could not, of course, detain then to go into reasons why he thought so, and why he thought it was quite unnecessary, but he was quite prepared to do so some other time. He could only say that the Town Planning Act, as Mr. Willmot had already mentioned, had definitely laid down that requirements on such matters, if reasonable, were not subjects of compensation.

An enormous amount of hard thinking on this subject was needed, and he was pleased indeed that it had been introduced in so able a way by Mr. Hunt, because the members of The Institution could give great assistance in threshing out the subject in discussions such as that in which they were taking part and by their study of the whole question. They wanted a great deal more light and a great deal more thought upon it, and he believed everyone who spoke with any authority on the subject would agree that whatever they might say could only be taken as of a tentative nature.

Mr. I. G. Gibbon, C.B.E. (Assistant Secretary, Ministry of Health) (Visitor), said it was a privilege to speak on that subject to a body of such men as theirs, a body which was so interested in the question from its practical standpoint. He would like to thank Mr. Hunt for bringing the subject forward, and to thank him for selfish reasons. No doubt they had read, and some of them might even believe, that a civil servant resented any outside criticism, and that he retired into his sacred domain to think out his own solutions of national problems. Well, he could assure them that was not the case as regarded town-planning. On the contrary, they were rather inclined to grumble, and grumble with good cause, that hitherto they had really not received as much help as they would like from outside in dealing with the problem.

He would touch on only a very few points of Mr. Hunt's Paper. He knew Mr. Hunt as a formidable opponent of old, so he was glad to say he agreed with most of his Paper. He was afraid he would have to fight him a lot more about some of his remarks. Mr. Hunt would find, for instance, that zoning, in the fact as distinct from the word, was a very much more ancient thing than an importation from the States. Indeed, they started work in England before the States. Furthermore, if he remembered rightly—he spoke from memory—the New York zoning law came into force in 1917. Mr. Unwin would correct him if he were wrong. He had just been over there.

Might he, contrary to Mr. Elgood's injunction, just say a word on compensation? He did suggest that it was perfectly clear from the Act as it stood that compensation was not payable in respect of what was called zoning. There was no mention, of course, of zoning in the Act, nor, in fact, in the model clauses which the Ministry hoped to issue very shortly did they use the word "zoning." Certain matters were expressly excluded from compensation by the Act, and they included those brought under "zoning." But there was a duty on the Ministry of Health to see that any provisions made with regard to zoning were reasonable, and he could assure the President that they did not look upon that duty in a perfunctory spirit. They required to be well satisfied that the zoning proposals were reasonable; not only that, but they hoped sincerely, and aimed at securing, that, so far as possible, zoning should be with the agreement of the owners and all those interested in the land.

But instead of following Mr. Hunt closely, probably they would prefer that he should say a few words with regard to the attitude of the Ministry on the question. Of course at present they could zone in the main only for areas not yet built upon. He agreed with what Mr. Elgood said, that for built-up areas zoning, as a matter of fact, should be much simpler provided that one thing was observed—that they did not try to get Utopian cities. They must wait for the preliminary devastations of fires, earthquakes or bombs for that; but they were content with obtaining the improve-

ments which were possible without any great damage to interests or any great cost to the community.

With regard to the attitude of the Ministry, in the first place he could assure Mr. Willmot that it was their desire that all town-planning schemes should be formulated after the very fullest consultation with all interests—not least the interests which were represented there. And might he again utter a word of quiet grumble? It was not that they did not welcome consultation, but that they had to take steps to stir the various interests to realise how closely they were affected, and he did ask, if he might, that their Institution should do a little more in this matter. Possibly they might see their way to make some systematic arrangement by which their members in the various localities were made fully aware of how they were affected, and were also counselled very strongly to consult with the local authorities in order to get as good a scheme as they possibly could. He hoped they could make some systematic arrangement to that effect.

On the particular proposals of zoning, again, might he say that the Ministry agreed entirely with what Mr. Willmot had said. They wanted elasticity. They did not believe in zoning from the clouds. They considered that an area should be allocated for a particular purpose only if there was reasonable certainty that the area would, in fact, be used for the purpose. If they considered the application of that principle to unbuilt land, they would find that it was wholly impracticable to zone many years ahead in any detail. Therefore they strongly counselled local authorities —and, of course, all schemes had to be approved by the Ministry—that they should zone only on the broadest lines until the time had arrived when development was fairly near, and when zoning could therefore be undertaken in some detail. He knew there was some misunderstanding on that point. There were some folks still who confused housing and town planning, and they thought it was the intention of the Ministry of Health to secure as much detail in town-planning as, for instance, in some of the housing schemes. Nothing of the kind. As he said, they wanted zoning only on the broadest lines. Further, they considered

that the allocation of a district for an exclusive use was warranted only if it were perfectly clear that the district was going to be used and used fairly soon for that purpose, that there was practically no other land suitable for the purpose, and generally also they felt that, unless the owner agreed, there must be an overwhelming case to allocate the district to an exclusive use.

The Ministry went further, therefore, and said that in most cases there should be a provision under which all that was really done was to provide for the predominant use of a district, and opportunity was afforded for other kinds of development to take place in that area with the consent of the local authority. Furthermore, they hoped to provide, as would be seen from the model clauses which the Ministry would shortly issue, that the more detailed zoning which might become desirable in many cases when development had become clearer could be undertaken under the provisions of a town-planning scheme without the necessity of going through all the rather complicated procedure of a new scheme. In that way, he thought, they would secure the elasticity which was so essential.

Just one word in conclusion: let them learn from the States without necessarily copying them. It was really striking how realtors, as they called themselves (it reminded one of Venice), how real estate men in the United States had found it of advantage to push zoning. It was not a little significant that property-owners in New York actually paid for advertisements counselling men to vote for the zoning ordinance. It was not a little significant also that demands had been made by real estate men for the zoning of areas in which they were interested because they said they found more difficulty in selling land in the unzoned than in zoned areas. He thought that from the narrowest standpoint of a private owner it would pay him to have an enlightened zoning provision; but a sound and well-considered zoning provision was assured only after the consultation of all interests concerned, and therefore he pleaded for all the help the members of The Institution could possibly give them.

Mr. J. W. Tyler (Fellow) said he was sure they had all obtained a great deal of useful information from Mr. Hunt on the origin of zoning, and his excursions into the United States had interested them very much. There were one or two points in connection with the question which struck one who had been in the habit of doing his own zoning more or less, in laying out building land. He personally had not had very much to do with the official town-planning work other than coming into contact with town-planning schemes in different parts of the country. But he had a good deal of experience in providing, in connection with the development of building land, that certain things might be done here and certain things might not be done there, and he could not help feeling, as a result of the experience, how difficult it really was to lay down a permanent rule about zoning for purpose of user. He had in his mind at the moment a large Yorkshire town where it had been in the past necessary for an important landowner, in the laying out of his land, to provide stipulations for the class of buildings which were to be erected thereon. Within the last forty years buildings had been erected with a settled plan and scheme, and lately, within the last ten years, that scheme had proved itself to be no longer desirable, and it was necessary now to switch over on to something else. That kind of thing occurred in other parts of the country. He himself had had experience of it in other places as well. It was, therefore, in his opinion, most essential that they should have the elasticity which had been referred to, and which, he was glad to say, had been emphasised by the gentleman who has just spoken from the official point of view. Englishmen, undoubtedly, did like a somewhat free hand; they liked to exercise their own ideas, and they did not like to be circumscribed and bound by other people's ideas. Nevertheless, it was essential that there should be a certain amount of restraint put upon people when they were developing cities and towns. It was really in the interests of everyone so long as it was done with reason, and so long as the means existed of turning over another

leaf if and when the time came for doing so. That would be agreed by everyone.

He personally was glad to see the question discussed at The Institution, although he admitted that he did not like the collar sometimes when he found it applied; but it was for the good of the community and therefore it should be done, and landowners and their agents and advisers had in the past helped in that direction in forming their schemes for development. They could only do it, perhaps, on a comparatively small scale, but they had done it, and he was sure they did not resent zoning so long as it was done fairly.

He was most happy to add his quota of thanks to Mr. Hunt for his excellent Paper.

Mr. Raymond Unwin (Visitor) said it was a great pleasure to add his meed of thanks to Mr. Hunt for his able and interesting Paper on a very difficult subject. They should understand the difference between themselves and the Americans in zoning, and in that respect he would like to emphasise that in England they had suffered from the want of zoning much less than in America because of the restrictive covenants that had been imposed by large landowners and their advisers. Possibly Mr. Willmot would be a little less sceptical about the value that had accrued from the stabilising of property values in America if he had seen, as one might see in many American cities, the setting down of a "Queen Anne's Mansions" between two "Park Lane "palaces"! That was the sort of thing that happened, and sometimes it was even worse—it might be a factory or a hot and noisy garage. They could readily imagine that when people had the amenity of their property interfered with by that sort of thing the value was bound to depreciate, and two millions, whether dollars or pounds, did not seem to him a large figure as being the improvements occasioned by the stability resulting from the zoning of New York.

He thought also that, perhaps, Mr. Hunt in his opening remarks had not quite done justice to the extent to which the local authorities were concerned with zoning in the United States. At any rate, he rather suggested that the

work was always done by Commissions. That, of course, was not the case, and the speaker read two or three examples of the ways of dealing with the administration and appeals.

As a matter of fact all these things varied in every State. Although it was true that the framing of the regulations was generally entrusted to a Commission, the adopting and carrying out of the regulations and the responsibility for them usually fell upon the municipalities.

He would not at the moment discuss with Mr. Hunt the question of whether the limitation of the size and perhaps shape of a city was such a hopeless task as he suggested. He should not like to be thought to agree with Mr. Hunt in that. They saw too many cities which had undoubtedly been limited by their fortifications. Zoning as applied to the reservation of open spaces in the form of belts or other different forms round towns and to the better distribution of the parts of the town was one of the uses which, in a few years, when they knew better how to do it, they would find most valuable to all.

In America there had been a tendency in the comparatively new activity of zoning in some cases to try zoning without planning. Most American planners, he found, and experts generally, were much opposed to that; so much so, that some told him that they now refused to undertake work if the zoning was not tied up with the planning. He would suggest there was a natural order in the planning out of a city, whether applied to the lay-out plan for development or to the clearance and improvement of the interior. He suggested for their consideration that first of all they must have a survey of the existing conditions, and, as Mr. Hunt had very well said, that was being done very thoroughly. He was most interested in the way it was being carried out in Chicago, where they were preparing new zoning regulations, which, if adopted on the lines that had been laid down, would carry the art of zoning a great deal further than anything that had been done elsewhere.

One of the items they were laying great stress upon was that they assessed the degree of depreciation on all the property, so that if there was a block in which there were

three or four very good buildings that were residential and a lot of very much depreciated buildings that were applied to some other use, that would tend naturally to give the use of that block the character to which the good buildings belonged instead of that of the depreciated buildings. Following the survey the next need was to determine the predominant zoning character of the area: what Mr. Gibbon had suggested was broad preliminary zoning. They wanted to say definitely, "This is a residential area; that is likely "to be an industrial area; this is a business and com- "mercial area." He did not think they could plan until they had decided that question; they must know whether they were planning for industries, commerce, or for a residential area. They must have the plan decided to a fairly considerable extent before they could wisely adopt what Mr. Gibbon called "the details of zoning." In every predominantly residential area there must be provision for many buildings which were not residential in character. They wanted their garages, laundries, public buildings, a certain number of shops, and so forth. Those could be placed only in connection with the detailed plan, and so finally they came down to the stage of the site plan. If they maintained that order, and if they did not attempt to do in the early stage work that ought to be done in the later stage, he thought they would realise that zoning and town-planning were parts of one whole, that they went together, and that they must go gradually; that they must first determine the broad distribution, and then gradually work down to the details as the final thing.

He would like to thank Mr. Hunt for the very able way in which he had put the subject before them, and with very great accuracy told them so much of the American practice.

Mr. Christopher Chart (Fellow) said the point in the Paper which had more particularly interested him was the great emphasis which Mr. Hunt had placed on the necessity for town-planning the areas which were built up. When they came to consider any town-planning scheme, while they were endeavouring to lay down ideal conditions for the land

which was at present unbuilt on but was in course of, or ripe for, development, they were leaving the centre areas entirely untouched, and they found, to take one detail, that they were providing for roads in the undeveloped areas which would be considerably wider than the main traffic roads. It seemed to him, therefore, that the built-up areas ought to be town-planned at the same time as those which were in course of development.

Compulsory town-planning applied only to urban districts, but there were, in the immediate vicinity of those urban districts, areas in rural districts—he referred more particularly to the neighbourhood in which he practised—which would, in the natural course of events, be developed in a very short time, and in such cases compulsory town-planning should be extended to embrace those areas on the outskirts of the more thickly populated suburbs.

Several speakers had referred to the desirability of more elasticity in zoning regulations, but he did not consider that a regulation that the zoning should be so and so " unless the " Council otherwise permit " was the best means of obtaining it. Owners would, he thought, be reluctant to concur in zoning regulations if they felt that they might be varied by a council in favour of one particular owner or estate. Mr. Hunt had set out on page 78 some particulars of the American method of securing elasticity which were worthy of careful consideration. He had read the Paper with great interest; it was, as usual in Mr. Hunt's Papers, full of information, and he wished to add his tribute of thanks to him for it.

Mr. P. J. Waldram (Fellow) said he was afraid he could say very little on the general question of zoning, except with reference to one particular point, viz., the height of buildings, in so far as that height affected the access of air and sunlight, not only to adjoining premises, but also to the streets.

There was not complete unanimity in America upon the law of light, but very important states, three at least, including New Jersey, had the English law, and it would certainly appear that the experience of real estate men in

America showing that property improved in value as soon as some regulation was instituted against the unlimited raising of buildings was a conclusive argument in favour of the law obtaining in this country. In this country it was not possible to go up to unlimited heights without getting into trouble immediately, either from the local authority or one's neighbours.

If he might introduce an allusion to compensation with regard to zoning, it certainly seemed desirable that the owners of building land should be compelled to consider that not only did they possess potential rights of going up to greater heights, but they also had obligations to their neighbours and the public.

There had been a very determined movement to promote in England, in London especially, buildings of increased heights, heights not only one and a half times the width of the street, but twice that width, and even more. Personally he could not refrain from expressing the opinion that it was a very good thing that those efforts had not yet met with success, because it was seldom realised how profoundly the health and comfort of the street were spoiled by high buildings excluding sunlight.

The question of sunlight was a somewhat awkward one, because, being a matter of everyday knowledge that should be in possession of every schoolboy, it was one that very few people knew anything about. He had the greatest difficulty a short time ago in obtaining even from astronomical authorities an opinion as to whether a simple diagram showing the apparent path of the sun across a building in the tropics was correct or not. In that connection he would like to bring to the notice of members the fact that the operation of tracing the apparent path of the sun across any building to ascertain the effect of raising a building was quite a simple matter if performed by means of a diagram which could be drawn by any ordinary draughtsman. Owing to the lateness of the hour he did not propose to describe the method in detail; but if they thought it desirable, he would be pleased to communicate an illustrated description to the *Journal*.

He had looked carefully through books on town-planning to ascertain what data were given with reference to the loss of sunlight due to narrow streets. It was referred to in the Tudor Walter's Report, but was there confined entirely to noon. From other authorities on town-planning the only reference he could find was an American quotation in Mr. Inigo Trigg's book.* Sunlight was of importance not only in zoning or town-planning, but also to small-housing schemes, and even to any single house. It was important that one should know what hours of sunlight could be obtained with windows of a certain size, at any aspect, at different times of the year, but few people could make even a good guess at it. In connection with the height and width of streets, they might, with some advantage, go back a few hundred years and copy the old streets in which houses were cantilevered out at the first-floor level—even though they did not now throw slops out of the upper windows, which he understood was one of the main reasons for projecting building fronts well over the side-walks. The suggestion had been made by Mr. Halsey Ricardo, and appeared to be a valuable one, which would tend to relieve the congested pavements of shopping areas, protect pedestrians and shoppers, and incidentally improve the value of property. In a street of shops one found the shoppers generally loitering in front of the windows, especially at this time of the year, and greatly impeding the footway traffic which was partly composed of people who wanted to get along. The streets of Chester, for instance, were extremely narrow, and there was a great deal of traffic through them. But he had noticed in Chester a very substantial proportion of shoppers looking at the shop windows on the first floor, the streets of Chester being largely old houses, the shops having additional windows on the first floor, approached by a secondary footpath raised on pillars or cantilevers well above the ordinary side-walk of the thoroughfare, and sheltering the latter from rain.

* I have since been advised of an excellent article in *The Town Planning Review*, Vol. VIII., No. 2, by Mr. A. Trystan Edwards, giving data of sun obstruction in parallel streets of buildings of uniform height.—P. J. W.

Every shopper using these upper footpaths was one obstacle removed from the path of those who needed to pass quickly along the street below.

The congestion of vehicular traffic could be relieved by providing alternative routes. The only possible relief to congested pedestrian traffic in busy shopping centres would appear to lie in the provision of such overhead footways.

It might be urged that such projections would obstruct sun; but this would not be the case if the dimensions were reasonable. The sun rose to a height of only 60 deg. above the horizon at noon in midsummer.

In modern steel-framed or reinforced concrete buildings construction should offer no great difficulty, and he ventured to quote Mr. Ricardo's suggestion as one which should not be lost sight of when considering the improvement of main thoroughfares.

Mr. H. V. Lanchester (Visitor) said that at that late hour, in supporting the vote of thanks, he must confine his remarks to a few brief observations. He thought a rather interesting and amusing point had cropped up in regard to the question of raising the permitted heights of buildings in cities. That was due, as it were, to a lack of zoning; they were trying to remedy a failure in zoning in one respect by modifying the method of zoning in another. The fact was the city areas were all so tightly packed together —the areas occupied by various professions and trades— that they were really in serious difficulty, and although he was in entire disagreement with the remedy proposed, it was the fact that there were business groups in towns which were incapable of expanding on any side, and where they were very overcrowded in the offices. That was, he understood, the reason underlying the movement to permit increased height; it was not purely a matter of greed.

There was another point with regard to the zoning of populated areas. It was largely a matter of pure economics; if a town did not zone, that town was more or less doomed. The confusion and the dislocation of business in a city that had grown up from early beginnings went on and on, and he

should not be at all surprised to learn that London was losing year by year an amount that ran into millions, through the disorganised way in which the smaller businesses were carried on. He had been brought to that conclusion by having been in touch with one or two big cities where the problem was still considered negotiable. One naturally went to see men who were concerned in the question to ascertain what were their views as to where they ought to be. In half the cases, perhaps, they would say they were in the right place. A good many of the other businesses or people, who were not so fortunately placed, would say, "I know we are making the best of what we "have got, but we should be far better off if we got a fine "site at so and so." That, of course, was the object of zoning, which was to provide such men with a site. He knew that in one case considerable artificial accentuation of value had been brought to one particular area. What was the reason? There were three distinct interests—the Government for their public offices, the commercial people, the banks and agents, and the transport interests were all aiming at the same point. It was the old centre place, and all were trying to get into one spot. There was no reason why they should be so crushed. The transport people would be far better off two miles to the east, and the Government offices a mile to the north, leaving the banks and commerce where they were. Of course they realised the difficulty. This area was rapidly becoming more and more congested, and more and more over-valued, purely because the tradition was that people went to that particular quarter, and everybody was trying to get there whether it was of any particular use to them or not. That was what they found in many of the big cities. It was a question, to his mind, of zoning or going under. The site that was reorganised, or a new site, was bound to have better organisation for manufacture, transport, and everything, than a site that was all in a tangle, and they had got to disentangle some of the big cities or they would find they were no longer economically productive machines, which, of course, was largely the function of the big city.

Zoning should be the subject of the widest and most careful consideration, as they had to foresee the future as far as it was possible to do so. He had heard some say, "But you cannot foresee; you are bound to go wrong." But they could not go more wrong than by doing nothing. They might not always be right, but if they did nothing they were bound to be wrong. He thanked Mr. Hunt very much for his interesting Paper.

Mr. J. P. Orr (Visitor), Indian Civil Service (retired), said he wished first to thank Mr. Hunt for the kind reference he had made to his work in connection with zoning. It was a great pleasure to him to come there, and if he began by saying he had been disappointed at what he had heard, he hoped the audience would not mistake him—he meant agreeably disappointed.

For about two years now he had been going round trying to get people to talk about zoning. He looked out for objections to zoning in the hope that he would be able to show—and he usually could—that they were based on misunderstanding; but in that room he had not yet heard anything serious in the way of objections to zoning, so he was agreeably disappointed.

He did not know whether any Americans were present, but if they were he hoped they would forgive him for saying that in some parts of America there were people who were too much given up to the motto, "Sweet are the uses of "advertisement," and when things, good things, got into their hands, they sometimes created bad impressions by overstating the case. That had been done as regarded zoning in some quarters, but among the best American town-planners one did not hear about property increasing in value by two millions. What one heard was that the value of property had been stabilised. In one of the latest pamphlets zoning had been described as the greatest stabiliser of real estate values ever conceived. If Mr. Hunt doubted whether New York properties had increased in value by two millions in two years, he (Mr. Orr) thought he would be the first to admit that it was possible there might be

many millions of value *conserved* by zoning—the protection of property from depreciation was the main effect of zoning in its earlier stages.

The mover of the vote of thanks said that zoning and town-planning were one. It was as well to be clear about that. Zoning in America was a part of town-planning, and it was now generally taken as the first part. New York was zoned, but not yet planned, though schemes for the town-planning of New York were coming into operation now. In town-planning there always had to be a certain amount of expropriation. Zoning was that part of town-planning which involved not expropriation, but only the control of the private use of property without expropriation. The rest of town-planning nearly always involved expropriation. He wanted to lay stress upon the value of zoning in its effect as a protective rather than as a restrictive measure, and he thought that was the way they could most profitably think about it. New York had been first in America in zoning schemes, and he might say that already by May, 1922, sixty-six towns in America had adopted zoning ordinances, and more than that number had them under consideration. In New York they had the simplest plans, and those were the ones he thought the most suitable for London. Substantially zoning had the same effect over a large collection of small properties as the restrictive clauses in leases upon single large properties. As regarded the difficulty that Mr. Tyler referred to about changes becoming necessary (in London there were cases in which changes were considered desirable, but were absolutely barred by restrictive clauses), that kind of difficulty was got over by an almost universal arrangement in zoning schemes prescribing a procedure for securing change when required. Those who had studied Mr. Hunt's Paper would see that change was made difficult, and yet not impossible, and any change permitted was always a change *in accordance with local option.*

Mr. Tyler had spoken of owners who wanted to change the restrictions that were put on the estate forty years ago. All that would be necessary in such a case in New York under the zoning scheme would be for at least half of the

owners interested to make a proposal for change, and then that change would be considered by the local authority, though it could not be put through in face of the opposition of 25 per cent. of the interested owners unless there were a unanimous vote for the change in the local council. In other cities a three-quarter vote would suffice to secure the change.

He had always advocated the application of zoning to built-over areas. If they had zoning applied only to the unbuilt-on area, they might be unjust to the owners in that area. The value of zoning was that it secured certainty as to surroundings, and that, surveyors would admit, was one of the chief elements in value. Certainty as to what the surroundings were going to be—zoning secured that. But if zoning was applied only to the area not yet built on, there was no certainty of what was going to happen in the adjacent built-on area when it was redeveloped. Therefore they ought to have zoning applied to the built-on area if only on that account. He heard at the Manchester Town Planning Exhibition that in some places—he thought Doncaster was one—they prepared town plans including zoning for the whole town. It was applied to the unbuilt-on area under the Town Planning Act and had to be gradually applied to the built-up area by special local Acts when occasion arose.

He was glad to see there was so little objection to zoning in that assembly. He felt certain that there was nothing like zoning to secure the welfare of a city, and he hoped that it would soon be introduced even into London.

The vote of thanks having been put to the meeting and carried unanimously,

Mr. Hunt, in reply, remarked that he would only say again—and he said it particularly to the younger men—that the task of reading a Paper was one of the obligations imposed upon them by reason of their membership of an Institution like their own. They ought to feel that it was an obligation they were prepared to discharge

whenever the opportunity was given them. Although it had been his good fortune to have had that opportunity on more than one occasion, he hoped it was not going to be the last.

On the discussion itself he did not know that there was anything calling for special reply, but he would consider what had been said that night when he saw the report, and if it seemed necessary he would communicate his reply in writing.

There were, however, two points he would like to refer to there and then, so that he might say what he had to say before those whose views he might appear to criticise. Mr. Elgood said, "Don't mention compensation," but that seemed to him to be trying to get zoning under false pretences. Local authorities had to accept the financial responsibility, and if there was a responsibility for compensation, let them understand it fully and frankly before they started, otherwise the advocates of zoning would be doing zoning a very great disservice.

The second point was that which was raised by Mr. Gibbon, "Trust the Ministry." Mr. Gibbon had stated that the Ministry had to be satisfied that zoning regulations were reasonable, and if that did not mean "Trust the "Ministry" he was not able to interpret ordinary language.

In support of this, experience had shown that in some of the earlier town-planning schemes endeavours had been made to secure that certain of the limitations should not carry with them the liability for the payment of compensation. For instance, the line of building frontage in the Northwood-Ruislip scheme. It was the only case he knew where anybody had challenged the provision in a town-planning scheme as to whether it was *bonâ fide* in law, and in that particular case, after an interesting argument, it was decided by the Court af Appeal that there was no power even on the part of the Ministry to impose in a town-planning scheme a regulation as to frontage on the strength that the local authority had power to make a by-law which the Courts found they had not. Therefore he was not prepared to give that whole-hearted trust to the Ministry that Mr.

Gibbon rather invited them to accept. The second point in that connection which raised doubts in the minds of surveyors was that they would see most of the enthusiasts on town-planning and zoning at the Ministry, and until the Ministry could be expected to exercise what he called a judicial mind, surveyors might be a little sceptical of finding unbiased judgment. Those were the only two points to which he wished to refer, and he had dealt with them in the presence of the gentlemen whose views it might perhaps be said he was criticising.

Mr. W. R. Davidge (Fellow) sent the following written communication:—

I should like to congratulate Mr. Frank Hunt on the interesting and suggestive Paper which he has laid before The Institution. The subject of "Zoning" is a prominent branch of town-planning, especially in the preservation of the amenities of our towns and in their regulations as apart from actual planning, and will have an important bearing especially when the allocation or districting of industries comes to be extended to the already developed portions of our towns.

A new name for what we call "zoning" is badly needed, but as Mr. Hunt has pointed out, in this country the regulation of height and space about buildings, even if not extended to "safety" and "morals" as in America, may be effected by the ordinary building law, and in consequence the term "zoning" really only covers the regulation of "user," *i.e.*, the allocation of various parts of a town to particular purposes, and the density of such occupation when used for residential purposes. "The Allocation of Districts for Busi- "ness Industries or Residence" would therefore be a more appropriate title, so far as this country is concerned, than "User Zoning."

Zoning is, however, only a part of town-planning, and, as Mr. Hunt shows, cannot be considered apart from the larger subject.

Mr. Hunt has put very clearly the advantages which

"user zoning" would have in such a community as London, not only for the area at present undeveloped, but also for at least one-half of the area already occupied by buildings.

Town-planning schemes under the Acts of 1909 and 1919 can, however, be made only in respect of "land which "is in course of development or appears likely to be used "for building purposes," although under the latter Act the built-up portions of a town may be included, if necessary to secure the objects of the scheme as a whole. The words "land likely to be used for building purposes" would appear to cover such portions of an existing town as are likely to be rebuilt, but the Ministry of Health are apparently advised that the wording applies only to open land surrounding our towns. Anyone walking down Regent Street at the present moment might, however, form the opinion that that part of London, at any rate, was likely to come within the wording in question; hence possibly Mr. Hunt's examination of the possibilities of carrying out improvements such as Charing Cross Road under the powers of the Town Planning Acts.

Such drastic improvements as this, however, do not form any part of zoning, and even in London are probably best dealt with by special Act as at present, unless they can be treated as slum clearances or are of such a character as can conveniently be dealt with by the Metropolitan Borough Council under Michael Angelo Taylor's Act (Metropolitan Paving Act, 1818).

So far as the county of London is concerned, I agree with Mr. Hunt that much has already been effected by the regulation of height of buildings and space about buildings by the operation of the London Building Acts. It should be pointed out, however, that these particular restrictions have been in existence only a little over fifty years, and that in the portions of London built before 1862 the height of buildings has little or no relation to the width of street, and that in these important areas both the limit of height, and the open space, provisions may be largely nullified by the right to rebuild to the full extent of *area* occupied by the existing buildings.

Upon the plans of any old building being certified by the district surveyor, the building owner in a narrow street has the right to re-build to the full extent of the *area* of the old building. So far as I am aware there is nothing to limit the new building to the same *height* as the old premises, and provided it is within the area of the old building it may be re-erected to any height up to the limit of 80 feet and two additional storeys in the roof, thus allowing the conditions of our narrow streets to go from bad to worse.

In the provinces, too, it should be pointed out that, apart from one or two large towns, the by-laws do not generally limit the height of buildings, and content themselves with restrictions as to construction, sanitation, and space about buildings.

Mr. Hunt's references to the antiquity of the building laws of London are particularly interesting, and corroborate the conclusions which I came to in a Paper read before the Royal Institute of British Architects in April, 1914, summarising the evolution of the London Building Acts and its predecessors from the time of FitzAlwyn's Assize in 1189 down to the present day.

The party-wall provisions forming the basis of the London Acts, now over 700 years old, provided for party-walls to be of stone 16 feet high and 3 feet thick, recesses or aumbries being allowed not more than a foot deep. FitzAlwyn's Assize expressly states that rights of light over a neighbour's land cannot be acquired to that neighbour's detriment, and by a further regulation of 1212 the extent of projections is limited to 2 feet 6 inches, the exact dimension still allowed for cornices over the public way.

The four City "viewers," consisting of two master carpenters and two master masons, who were early deputed to supervise all new buildings on behalf of the City, were almost certainly the predecessors of the district surveyors of the present day, who may thus claim an almost venerable ancestry.

The two Acts (1667-1670) for rebuilding London after the Great Fire afford, probably, the most complete building code which London has ever had, and include many matters

not covered by present-day legislation. In addition to the matters mentioned by Mr. Hunt, there was a very important "betterment" and compensation clause which provided for the assessment of "betterment" or compensation by a jury empanelled for the purpose.

A further important clause secured the reservation of a public quay 40 feet in width throughout the whole length of the City from Blackfriars to the Tower. This was the only part of Wren's plan to be carried out, and it is to be regretted that this magnificent improvement was eventually encroached upon and finally lost to the public about a hundred years ago (in 1821). The portion of this quay still existing in front of the Custom House shows how fine an improvement we have lost by this encroachment. This serves to emphasise the need for constant and continued watchfulness in the enforcement of town-planning and similar enactments to ensure that improvements will not only be carried out but maintained in the public interest, although, of course, provision for revision from time to time is essential.

The carrying up of party-walls through the roof goes back to the days of Queen Anne in 1708, and the laws as to limitation of cubical extent and iron doors had their origin in 1774, when fire engines were very primitive affairs; hence the recent changes in the practice as to both these matters were perhaps just a little overdue.

These questions, however, although affecting building regulation, are not matters of zoning, and I should like to conclude by again expressing my appreciation of the interesting manner in which Mr. Hunt has introduced the subject, and my general agreement with the conclusions he has arrived at on the subject of zoning, as it is at present called.

PAPER 474.

THE LAW OF PROPERTY ACT, 1922.

By C. P. Sanger (Barrister-at-Law).

To be read at the Ordinary General Meeting of The Surveyors' Institution, on Monday, 12th February, 1923.

The Law of Property Act, 1922, marks a stage in a struggle which has lasted for centuries. Originally a conveyance of freehold land was a public affair. No writing was required: land could be given by word of mouth, coupled with actual delivery of possession, or livery of seisin, as it was called. The person who granted the land, called "the feoffor," put the grantee, or feoffee, in vacant possession, giving him a twig or a turf as a symbol. Generally the transaction was recorded in a charter of feoffment, but this was not necessary. A practice, however, grew up by which persons were enfeoffed *to the use of*, or, as we should say, *in trust for*, someone else. This was done to avoid certain feudal burdens, or to bar dower, or for other reasons. The common law judges took no notice of these uses; but the Lord Chancellor took the view that it was against conscience that a man who had been enfeoffed to the use of another should keep the land for his own benefit, and consequently compelled the feoffee to uses to carry out his trust. This is the origin of our system of trusts, which are enforced in Chancery. Now the person who had the use could transfer his use (*i.e.*, his beneficial interest in the property) without any formal and public act on the land, so that land could, in effect, be conveyed privately. This system of uses operated to deprive feudal lords of some of their advantages, and with a view to stopping this, in the reign of Henry VIII. the celebrated Statute of Uses was passed. This statute provided that if A was seised to the

use of B, the legal estate in the land passed to B, and A took nothing. Now the Court of Chancery had held that if A bargained and sold his land to B, so soon as B had paid the purchase money A was seised to the use of B. It followed that, after the Statute of Uses, a mere agreement to buy and sell, coupled with the payment of the purchase money, passed the land without any further act. Legal estates in land could, therefore, now be conveyed without any publicity. But in the same year another statute was passed which required every bargain and sale of freehold land to be made by deed and enrolled in one of the courts at Westminster.

One would have supposed that a conveyance of land had again become a public act. The lawyers, however, soon found a loophole.

The Act did not apply to leases. If A bargained and sold his land to B for a year in consideration of 10*s.*, B became lessee for a year, as if he had actually entered into possession under a lease. Then, B being in the eye of the law in possession, A, who was not in possession, could by a deed *release* his estate to B so that B acquired the whole fee simple. This celebrated method of lease and release was a triumph for private conveyancing. Parliament had been effectually defeated. In 1841 an Act was passed which enabled the lease to be dispensed with, and finally, the Real Property Act, 1845, provided that land should be deemed to lie in grant as well as livery, that is, that it could be conveyed by deed without actual delivery of possession on the land.

The struggle then began to take a different form. People had become accustomed to the title to certain kinds of property such as stocks and shares and ships being made to depend on a register. Why then not have a register of land? The difficulties in the case of land were, *first*, the description of the property, the boundaries, and dimensions; *secondly*, the rights affecting the property, such as rights of light and other easements; *thirdly*, the exceptions, such as an exception of the mines and minerals; and *fourthly*, the extreme complication of the interests. Very commonly property was settled on persons in succession, and was also

subject to long leases which again were sub-leased. If we take a new country like Australia, and the Crown grants either the freehold or long leases of large plots—say 160 acres—these can easily be described by a plan; the complications of settlements and leases are unknown; easements are rare. In such a case registration of title ought not to present any serious difficulties; but in an old thickly populated country, with an extremely complicated law of real property, the matter was not so easy.

The attempt was, however, made by Lord Westbury's Act of 1862. In many respects it was a good scheme. An indefeasible title under that Act was an excellent title. But the cost was terrible. To ascertain what the exact boundaries are, which walls are party-walls, what are the easements and rights, is a very expensive affair. The Act failed totally because it was too costly, and another attempt was made by the Land Transfer Act, 1875.

Under this Act the exact boundaries are not defined; easements and rights are not stated in the register; short leases are not mentioned. The idea was to give a moderately good article at a moderate price. The Act had defects and was a failure. Persons who had registered under it found by experience that it caused trouble and took their titles off the register. What was to be done? There seemed to be two alternatives; either repeal the Act and close down the registry, or compel people to use it whether they wanted to or not. An intermediate course was taken. By the Land Transfer Act, 1897, an Order in Council may declare that as respects any county the registration of title to land shall be compulsory on a sale. The first order was to affect only one county, and no further order was to be made unless the county council of the county concerned passed a resolution in favour of it. London was chosen as the first county, and we have now for twenty-four years had experience of compulsory registration in London. As a result of this experience no other county has shown any desire for compulsory registration. A Royal Commission was appointed, which found the Act to be in many respects defective, and could not recommend its compulsory extension so long as these defects

lasted. Meanwhile the system of private conveyancing was far from perfect. In spite of the Conveyancing Act of 1881, the Settled Land Act of 1882, and other remedial statutes, the law was archaic and complicated, and the investigation of titles a matter which required a good deal of technical knowledge. The solicitors, represented by the Law Society, were always pressing for improvements, and they promoted many Bills to improve the law. The present Act is largely due to their determined desire to improve the law; but the final scheme has taken a long time to develop. When I first came to the Bar in 1896 a Bill drafted by the late Mr. Wolstenholme was promoted. This was the starting-point. The conveyancers raised certain objections and it was dropped. Later a scheme known as Lord Haldane's was promoted. This was an improvement on Mr. Wolstenholme's, but was to my mind unduly complicated. Then came the war. A committee, usually known as Mr. Leslie Scott's Committee, was appointed to consider the Acquisition of Land. This Committee arrived at the inevitable conclusion that conveyancing could not be a simple matter so long as the law of real property remained so complicated and difficult. There were three different tenures of land—freehold, copyhold, and leasehold, each subject to a different law. At this stage Sir Arthur Underhill, the Senior Conveyancing Council to the Court, wrote a brilliant pamphlet entitled "The Line of Least Resistance," in which he proposed that the law of copyholds and freeholds should be assimilated to that of leaseholds. This would mean, for example, that on an intestacy all property would be distributable among the statutory next of kin; that particular estates—*e.g.*, life estates—could not be created at law, though they could in equity; that it would not be necessary in deeds to use technical expressions such as "and his heirs" or "in fee "simple." But this assimilation was to be subject to one important exception, namely, that estates tail could be created in all kinds of property; so that in this respect the law of leaseholds was to be assimilated to that of freeholds. The Committee approved of Sir Arthur Underhill's suggestion, and directed a Bill to be drafted on those lines.

The situation which then arose was this:—The solicitors wanted the reform of the law of real property and of conveyancing. The bureaucrats wanted the amendment of the Land Transfer Acts and the abolition of the clause which required the consent of the county council to compulsory registration; they were powerful enough to prevent the reform of the law of property in order to get a stronger argument for compulsory registration.

The Act of 1922 represents a compromise. Generally speaking, the law of real and personal property is assimilated: the Settled Land Acts, the Trustee Acts, the Conveyancing Acts are amended and greatly improved: copyholds are abolished. At the same time the Land Transfer Acts are amended and the veto of the county councils on compulsory registration is removed, but there is to be a period of ten years before any compulsory order is made.

The Act is immensely long and complicated. It does not get rid of all the old law of real property, and it cannot be understood without a considerable knowledge of that law extending back to the time of the Plantagents. All that I can do here is to pick out a few points which, I hope, may be of interest to surveyors.

Copyholds.

Copyholds might have been developed into a type of property registered on the court rolls of the manor. But they were not conveyed by reference to a proper map. The old descriptions were often unintelligible. The customs were various and not easy to ascertain. They have long since become a nuisance, except when one regards them as interesting relics of antiquity. The Act of 1922 converts copyholds into freeholds, making temporary provision for the payment of the same fines, quit-rents, and payments, as before, and provides for the ultimate extinction of all manorial incidents. The stewards of the manors are to be compensated. I apprehend that this reform will assist the task of accurate valuation. The value of a copyhold depends on actuarial computations based on lives, often combined with considerable uncertainty as to what fines, heriots and fees

are payable on death or alienation. This reform was long overdue.

Renewable Leaseholds.

Another useful reform is the conversion of perpetually renewable leaseholds into long terms. This class of property is not common except in certain special localities, such as Liverpool. This tenure had, so far as I can see, no merits, and it is difficult to understand why this type of holding should exist.

Settlements.

But the parts of the Act which are most important to me as a conveyancer are the provisions which will make it easier to make a title to land. The chief difficulty for a conveyancer arises from settlements, and from what are called "equitable interests." If, as for example on a marriage, stocks and shares are to be settled, investments are transferred into the names of the trustees, who hold them on the trusts declared by the settlement. If the trustees sell an investment, the purchaser gets a good title and the trusts are shifted over to the purchase money. But with land this was not so. Land could at law be split up into a series of estates, *e.g.*, to A for life, then B for life, then to C in tail, then to D in fee. Or even if the land was at law vested in trustees the purchaser who had notice of the trusts of the settlement did not get a title free from the trusts unless there were special provisions enabling him to do so. There were two methods used —either the land was conveyed to the trustees in trust to sell, and by a separate deed the trusts were declared of the purchase money, or the trustees were given power to sell. But in the case of investments the beneficiary has no interest in the particular property—it is merely an investment. In the case of an old family house or estate it is unsatisfactory that the matter of a sale should be left to the trustees. Further, some settlements and many wills omitted these powers, so that the land was unsaleable before the Settled Land Act, 1882.

The new Act prohibits the creation *at law* of particular estates or interests such as an estate for life, and, just as in the case of investments, requires that these beneficial interests are to take effect in equity only. So far the law of real and personal property has been assimilated. If, when land was settled, the analogy of settlements of personalty were followed, the whole fee simple would be vested in trustees, who could sell, lease and generally deal with the property. But there was a difficulty. Under the Settled Land Act, 1882, a tenant for life was given power to sell and exchange and certain powers of leasing, while the beneficiaries were protected by a provision that any purchase money should be paid to trustees. This scheme has worked well. The tenant for life is obviously the person to manage the property, to decide whether some parts should be sold or let. It would be most undesirable that all leases should have to be granted by the trustees, and it would be unpleasant for the tenant for life to feel that he could not manage his own estate. The new Act, therefore, provides that the whole fee simple shall be vested in the tenant for life by a document which also states who are the trustees for the purposes of the Settled Land Acts, and that the beneficial interests shall be settled by a separate document. In the case of existing settlements a vesting deed will have to be executed as soon as possible after 1924 to vest the fee simple in the tenant for life. By this means a lessee or purchaser will not be concerned with the provisions of the settlement, contained in a separate document, but he will know that the powers of leasing are limited to those given by the Settled Land Acts, and that any purchase moneys must be paid to the trustees named in the vesting deed. When the scheme is in full operation, the investigation of titles will thus be greatly simplified. No purchaser will be concerned with the beneficial trusts. Either the vendor will be absolute owner, or will be a tenant for life who has and can sell the fee simple, or the land will be held upon trust for sale. The purchaser will only be concerned with legal estates and certain equitable ones, such as restrictive covenants or rights arising out of a deposit of the title-deeds by way of security.

But to effect this it was also necessary to alter the method of mortgaging property. At present the mortgagee has the legal fee simple. If there is a mortgage, in fee, so that the settled estate is only a settlement of an equity of redemption, there is no legal fee simple to vest in the tenant for life.

This difficulty is surmounted by going back to the old practice of making mortgages for long terms of years. The mortgagee has a legal mortgage—he has a legal term of, say, 3,000 years—but the mortgagor has a legal fee simple. This scheme has a further advantage. When the mortgage is paid off the term of years will cease. It is only necessary to put a receipt on the mortgage; no reconveyance will be required. The title to the fee simple will not, as at present, have to be traced *through* the mortgagee. The new Act also extends the powers of tenants for life under the Settled Land Acts. I cannot go into these here, but another Paper dealing with these powers, written by a surveyor, would be interesting and useful. The Act also abolishes many technical rules, and makes many amendments to the Conveyancing Acts. Most of these alterations are only of interest to lawyers, but there are three alterations in the law which are of general importance.

Restrictive Covenants.

Restrictive covenants are in many cases a necessity. It is not possible to develop a residential estate if anyone on it can open a fried fish shop. But the law is not satisfactory; it is often difficult to find out who can enforce, and, therefore, who can release, such covenants. Is there a general building scheme or is there not? Who are bound by the covenants? A man may be bound by a covenant of which, in fact, he has never heard, by reason of the doctrine of "constructive notice"; for example, if it had come to the notice of his solicitor, or would have come to his notice if he had made such inquiries as he ought reasonably to have made. After a time the character of the neighbourhood changes, and the restrictive covenants become undesirable. Sometimes it is known that there are restrictive coven-

ants, but the deed containing them is lost, and there is no satisfactory evidence of its contents. I have known this to occur. The Act (Section 3) provides that a purchaser of a legal estate shall not be affected by a restrictive covenant created after 1924 unless it is registered as a land charge. If the register shows not only the land affected by the covenant, but also the land for the benefit of which it is imposed, it will be valuable. But the fact of restrictions being registered will make it impossible for them to be forgotten, as sometimes happens now, and, therefore, for the purchasers to get the land free from them because they have no notice of them.

The new Act, however, makes an important alteration in the law by enabling restrictive covenants to be discharged or modified in certain cases. Section 90, which provides for this, is too long for me to quote in full.* Shortly its effect is that one of the official arbitrators appointed for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919, may by an order wholly or partially discharge or modify any restriction (subject or not to the payment by the applicant of compensation to any person suffering loss in consequence of the order) upon being satisfied—

(*a*) That by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the authority may deem material, the restriction ought to be deemed obsolete, or that the continued existence thereof would impede the reasonable user of the land for public or private purposes, without securing practical benefits to other persons or, as the case may be, would unless modified so impede such user; or

(*b*) That the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by

* It is set out in full at the end of this Paper.

> implication, by their acts or omissions, to the same being discharged or modified, or that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction: Provided that no compensation shall be payable in respect of the discharge or modification of a restriction by reason of any advantage thereby accruing to the owner of the land affected by the restriction, unless the person entitled to the benefit of the restriction also suffers loss in consequence of the discharge or modification, nor in excess of such loss; but this provision shall not affect any right to compensation where, by reason of the imposition of the restriction, the amount of the consideration paid for the acquisition of the land was reduced.

It is impossible to foresee the effect of this clause. Experience alone will show whether it is frequently made use of; but it clearly will have to be borne in mind when valuing land which is either subject to or which has the benefit of restrictive covenants. The section also applies in the case of leases (other than mining leases) originally granted for a term of more than 70 years after 50 years of the term has expired.

There is another section of the Act which in fact may enable land to be freed from restrictions in a way which is damaging. A person who for value acquires a legal estate is only liable to restrictions of which he has notice. But he cannot, as the law now stands, say that he has no notice because he did not investigate the title, when he would in fact have got notice if he had made a proper investigation. This is only reasonable. An intending lessee, however, is not, apart from the express contract, entitled to see his landlord's title, but as he could have contracted to see it, he now takes subject to any restrictions on the freehold. After 1924, by virtue of Section 95 (2) of the new Act, the intending lessee who does not investigate his landlord's title will not be affected with notice of what he would have discovered if he had made a proper investigation. The result

is that we may have a residential estate sold in plots under a building scheme. The owner of a plot can grant a long lease which contains no restrictive covenants, and the lessee can at once open a shop or carry on any unpleasant business without his neighbours being able to stop him. I regard this as a serious matter. What I suggest may not happen, but the risk of it will impair the value of residential property. It will be interesting to observe how far in practice this will affect values.

Undivided Shares in Land.

Land may not only be settled on persons in succession, but many people may have concurrent interests in it. In the case of stocks and shares if (say) three persons are registered as holders, they are at law joint tenants; that is, on the death of one, the survivors take, but this is without prejudice to the beneficial interests in equity. Now if, as not infrequently happens, land at law becomes vested in a number of persons as tenants in common, the result is very inconvenient. It is awkward to lease or sell, and sometimes there are doubts as to who is entitled to some of the shares. Under the Partition Acts the owners of a moiety can get the land sold or partitioned by the court, but experience has shown that this is a costly affair. To get rid of this difficulty the new Act provides that *at law* persons may not hold undivided shares in land as tenants in common; and by an elaborate scheme the entirety of land held in undivided shares will be vested in trustees for sale, with power to postpone the sale. Thus titles will be simplified and partition actions abolished. This suggestion was also due to Sir A. Underhill, whose experience as a conveyancing counsel to the court had led him to see the serious delay and expense caused by partition actions.

Intestacy.

At present on an intestacy land descends to the heir-at-law or customary heir; personalty, on the other hand, is divisible amongst the statutory next of kin. The new Act

does not provide that land shall devolve as personalty, but provides an entirely new scheme of distribution for all classes of property. The scheme is rather complicated, and has been criticised, but it must be admitted that it is a great reform to have one scheme applicable to all classes of property. It will in time render obsolete certain technical doctrines, and will get rid of various complications. Perhaps the two most important features of it are, first, that the husband and wife are treated similarly; and, secondly, that no person will take who does not attain twenty-one or marry. But I cannot go into details here.

Conclusion.

I think that undoubtedly the new Act will be found to have improved the law; but for the next twenty or thirty years it will be necessary to know both the old and new law. This will be a great burden on those who begin to practice in the near future. I expect that an amending Act will be found necessary to deal with many small defects which will come to light. It must not, however, be supposed that the Act is more than a stage towards a rational law of property. Many technicalities will survive. Some of the results will be, I fancy, unexpected. It is not true to say that it codifies the law of the land; it does nothing of the sort. It removes many absurdities. It will simplify conveyancing. But the law will still remain as it is now, a patchwork of the old and new, unintelligible without a study of its past history, and a mystery to all but professional lawyers.

APPENDIX.

SECTION 90 OF THE LAW OF PROPERTY ACT, 1922.

1. The Authority hereinafter defined shall (without prejudice to the jurisdiction of the court) have power from time to time, on the application of any person interested in

any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction (subject or not to the payment by the applicant of compensation to any person suffering loss in consequence of the order) upon being satisfied—

(*a*) That by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Authority may deem material, the restriction ought to be deemed obsolete, or that the continued existence thereof would impede the reasonable user of the land for public or private purposes, without securing practical benefits to other persons or, as the case may be, would unless modified so impede such user; or

(*b*) That the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by implication, by their acts or omissions, to the same being discharged or modified, or that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction:

Provided that no compensation shall be payable in respect of the discharge or modification of a restriction by reason of any advantage thereby accruing to the owner of the land affected by the restriction, unless the person entitled to the benefit of the restriction also suffers loss in consequence of the discharge or modification, nor in excess of such loss; but this provision shall not affect any right to compensation where, by reason of the imposition of the restriction, the amount of the consideration paid for the acquisition of the land was reduced.

2. The court shall have power in any proceedings on the application of any person interested—

(*a*) To declare whether or not in any particular case

any freehold land is affected by a restriction imposed by any instrument; or

(*b*) To declare what, upon the true construction of any instrument purporting to impose a restriction, is the nature and extent of the restriction thereby imposed and whether the same is enforceable, and if so by whom.

3. The Authority shall, before making any order under this section, direct such enquiries (if any) to be made of any local authority, or such notices (if any) whether by way of advertisement or otherwise, to be given to such of the persons who appear to be entitled to the benefit of the restriction intended to be discharged, modified or dealt with as, having regard to any enquiries notices or other proceedings previously made, given or taken, the Authority may think fit.

4. The Authority may make rules in relation to any applications to be made to the Authority under this section and may revoke or vary any such rules, and with the consent of the Treasury may prescribe the fees to be paid in connection with any application to the Authority.

5. Any order made under this section shall be binding on all persons, whether ascertained or of full age or capacity or not, then entitled or thereafter (subject to the order) capable of becoming entitled to the benefit of any restriction which is thereby discharged, modified, or dealt with, and whether such persons are parties to the proceedings or have been served with notice or not, but any order made by the Authority shall, in accordance with rules of court, be subject to appeal to the court.

6. An order may be made under this section notwithstanding that any instrument which is alleged to impose the restriction intended to be discharged, modified, or dealt with, may not have been produced to the court or the Authority, and the court or the Authority may act on such evidence of that instrument as it may think sufficient.

7. This section applies to restrictions whether sub-

sisting at the commencement of this Act or imposed thereafter, and whether the freehold land affected thereby is registered or not, and, in the case of registered land, the Chief Land Registrar shall give effect on the register to the order when made, but this section does not apply where the restriction was imposed on the occasion of a disposition made gratuitously or for a nominal consideration for public purposes.

8. Where any proceedings by action or otherwise are taken to enforce a restrictive covenant, any person against whom the proceedings are taken, may, in such proceedings apply to the court for an order staying the proceedings and giving leave to apply to the Authority under this section.

9. In this section "the Authority" means such one or more of the official arbitrators appointed for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919, as may be selected by the reference committee under that Act.

10. This section does not apply to restrictions imposed by the Commissioners of Works under this Act for the protection of any Royal Park or Garden or to restrictions of a like character imposed upon the occasion of any enfranchisement effected before the commencement of this Act in any manor vested in His Majesty in right of the Crown or the Duchy of Lancaster.

11. Where a term of more than seventy years is created in land (whether before or after the commencement of this Act) this section shall, after the expiration of fifty years of the term, apply to restrictions affecting such leasehold land in like manner as it would have applied had the land been freehold:

Provided that this sub-section shall not apply to mining leases or leases for mining purposes.

AT

THE ORDINARY GENERAL MEETING

Held on Monday, February 12th, 1923,

A DISCUSSION took place on a Paper entitled

THE LAW OF PROPERTY ACT, 1922,

By C. P. Sanger (Barrister-at-Law).

J. McCLARE CLARK (President) in the Chair.

The PRESIDENT said he had a very pleasing duty to perform, namely, to propose the election as an Honorary Member of Mr. Daniel Watney, the only original member of The Institution now remaining. He had now retired from professional practice, and was, therefore, eligible for inclusion in the list of distinguished men who had from time to time been elected Honorary Members of The Institution, a position which, under the By-laws at present in force, was not open to a practising surveyor.

Mr. Daniel Watney had been a member since the year 1868; he was certainly the oldest member, and probably, all present that evening would agree, the most valued member of The Institution. He had served on the Council for 46 years, and had occupied the position of President from 1895 to 1897. He had never spared himself in advancing the interests of The Institution, and he, Mr. Clark, ventured to say that no one had ever occupied a more honoured position in the profession. Mr. Watney continued to take the greatest interest in all that occurred at The Institution meetings and in the Benevolent Fund, in connection with which he still held the important office of Treasurer. He was sure that members would accept the proposal with enthusiasm, and that one and all would hope that Mr.

Watney might long be spared to occupy the position to which he would be elected that evening and to preside over them as Father of The Institution.

The proposition was carried with acclamation.

Mr. C. Herbert Bedells (Member of Council) said he rose with much pleasure to propose a hearty vote of thanks to Mr. Sanger for the Paper he had been good enough to prepare. It was the first time, he thought, that the members were indebted to Mr. Sanger, but he hoped it would be by no means the last. It certainly was not the first time The Institution had been indebted to members of the profession to which Mr. Sanger belonged: fortunately there had always been found in the ranks of those "who for "their long study and great industry bestowed upon the "knowledge of the . . . . law, are called out of their con- "templation to practise," men who had been willing to share their specialised information with surveyors, with a view to the better discharge of the latter's professional responsibilities.

In no direction, he supposed, did surveyors stand in greater need of such guidance and assistance than when they were face to face with what had been described as "a "tortuous and unholy jumble," namely, the laws affecting land. They would be grateful to anyone who, in those circumstances, came to their aid; but in the present case there were special reasons for that gratitude when they had before them what, he believed, was the longest, the most varied, the most technical and the most comprehensive Act of Parliament which had ever received the sanction of the Legislature. Its 300 pages, 191 Sections and 16 Schedules might well discourage any surveyor from reading it or considering it until occasion to do so actually arose. Mr. Sanger's Paper, however, came not only as an introduction, but also as an encouragement to them.

Sir Arthur Underhill, to whom more than to any other single person credit was due for the Act, in a preface to a series of lectures which he had given to the Bar on the sub-

ject, quoting from Bacon was reported to have said that his object was "rather to excite your judgment briefly "than to inform you tediously"; and he thought those words might apply equally happily to the Paper which Mr. Sanger had been good enough to read before The Institution that evening.

Two small points occurred to him on the historical review with which the Paper opened. In the first place he thought Mr. Sanger might possibly have made some reference to the work of the Royal Commission of 1828, which had been set up at the instance of Lord Lyndhurst, and was known as "The Real Property Commission," and which was often referred to as the starting-point of the changes in the law of property.

In the second place, he thought members should adopt and also emphasise Mr. Sanger's recognition on page 4 of his Paper of the debt which the public owed to the persistent action of the Law Society in their endeavours to secure an improvement of the law. The public, and possibly surveyors as members of the public, had sometimes criticised that branch of the legal profession as revelling in subtleties and technicalities and rejoicing in the piling up of folios, and so forth. He thought such critics ought in fairness to recognise the work that that society had done for the improvement of the law in the contrary direction. Any changes in the law which led either to simplification or economy appealed to members as surveyors, and it was claimed the Act under discussion made a bold step in those directions by —

(*a*) The elimination of needless technical expressions and their attendant mystification of the lay mind;

(*b*) The elimination of various uncertainties and speculative elements;

(*c*) The facilitating of the provision of capital;

(*d*) The facilitating of transfer and sale of land; and

(*e*) The reduction of incidental costs.

The first, viz., the elimination of needless technicalities, was secured, amongst other provisions, by the Definitions,

and by the provisions of Section 107, whereby a deed might be called a "deed," a conveyance "a conveyance," and so forth; so that in the future when one picked up a document one might know what it was at a glance, without being put off by the words "This Indenture" in large letters at the top of the first page.

The second point—the elimination of uncertainties and speculative elements—was instanced by the elimination of all those uncertain and speculative fines, heriots and expenses associated with copyhold tenure, which was now abolished as a system. Also the uncertainties of duration of interest arising from leases for lives, and under perpetually renewable leases, which by the Act were commuted into long terms.

With regard to the third point—the facilitating of the provision of capital—that was assisted by the provisions requiring trustees in certain circumstances to concur in sales on terms permitting of two-thirds of the purchase money remaining on mortgage without the expense of valuation and report; and also by empowering trustees to undertake not to call in, for a period not exceeding seven years, moneys advanced by them.

The fourth point—the facilitating of transfer and sale—was secured by the removal of difficulties which had often arisen from the system of joint tenancies now abolished, and by empowering trustees to sell land so held, and by provisions making possible the removal or modification of obsolete restrictive covenants.

The fifth point was met by the shortening of the period for open contract of sale to thirty years (which was exactly half what it had been prior to 1874); by making a reconveyance on the clearing of a mortgage unnecessary; and also by an eventual extended system of registration.

The methods adopted by the Act for securing those and other similar objects were, of course, open to, and would be the subject of, very close criticism from all quarters in the period which would elapse between the present time and the 1st January, 1925, when the Act came into operation, and innumerable questions would arise, to some of which

Mr. Sanger had already referred, and to one or two of which he himself might call attention.

First of all, with regard to leases which were perpetually renewable, Mr. Sanger referred to these as being common in Liverpool. They were probably more common than Mr. Sanger thought. At any rate, he thought all surveyors were familiar with them in connection with the properties which belonged to the Corporation of the City of London in the Bond Street district—for instance, Falcon Square, and in many other places. A large number of properties were held, he thought, on perpetually renewable leases. By the Act they were altered to a term of two thousand years. The legal mind had appreciated that in the course of such an immense term as two thousand years some of the documents of title might become indecipherable, and they had therefore provided machinery whereby substituted copies of deeds, entered on the register, were to be accepted as evidence of what the original deed provided. But what did not seem to have come within their purview was the following point: that in the space of two thousand years there would be many buildings on the land which it would be quite impossible to maintain in the condition in which they had been originally erected. There was nothing in the Act, so far as he had been able to see, which provided for such a contingency, which certainly surveyors would contemplate happening if they were looking to two thousand years of leasehold tenure. It was true that there were provisions in the Act whereby a lessee could determine his lease at recurring periods, but he did not think that met the point. The question was what would happen when the buildings had got very nearly to the end of their term of existence. He supposed that in the far future that would provide a subject for activity of both surveyors and lawyers.

Before he passed from that point there was rather an interesting matter with regard to the arithmetic of the Act. Sub-section (5) of Section 12 of Schedule 15 of the Act said: "Subject to any order of the Ministry or the court to the "contrary, and, in default of agreement, the amount of

"each annual instalment of additional rent" (that was rent in respect of fines or premiums) "shall be ascertained by "dividing the aggregate amount payable by the lessee or "under-lessee on renewal by the number of years which "represented the interval, or average interval, occurring "between the dates of renewal." If a lynx-eyed person interested in settled land said to the tenant for life, "Look "here! This part of your income is derived in respect of "a premium which would only become payable, say, in "sixty years' time, and therefore you as tenant for life "must not treat it as income, but it must be rolled up for "the time being until the sixty years have expired," the result would be that, with compound interest at 4 per cent., the reversioner would receive about three times the amount of premium to which he would have been entitled if the system of perpetually renewable leaseholds had not been abolished.

Consequent upon the abolition of joint tenancies, the Partition Acts of 1868 and 1876 were repealed. His (Mr. Bedell's) thoughts naturally turned to party-wall questions, and he would be interested to know what would now be the legal presumption with regard to a party-wall outside London when the limits of the land were unknown. Surveyors had generally been taught that in such a case the party-wall was to be deemed to be held by the respective owners as tenants in common. He knew of one case in which a very enterprising architect and surveyor had managed to escape the unpleasant consequences of an alleged contempt of court because he had the Partition Acts to fall back upon. He would like Mr. Sanger to state, if he would, what would be the position in future in such a case if the Partition Acts were repealed and a tenancy in common negatived by the Act.

As to the restrictive covenants, and their removal or revision, the members might heartily congratulate Mr. Howard Martin and Mr. Wallis on the confidence which was reposed in their tribunal, and the members might also congratulate themselves on the possibility in the future of getting some of those awkward restrictive covenants, which

had become obsolete, modified in a reasonable way. He thought, however, that the tribunal might have some difficulty in carrying out one provision of the Act, which was referred to in the section quoted as a supplement to Mr. Sanger's Paper. The clause having provided that no compensation shall be payable in respect of the discharge or modification of the restriction, unless it could be shown that the person for whose benefit the restriction existed would suffer injury by the modification or repeal of the condition, went on to say: "This provision shall not affect any right "to compensation where, by reason of the imposition of the "restriction, the amount of the consideration paid for the "acquisition of the land was reduced." How was the tribunal to get a clear idea as to whether or to what extent the consideration of a purchase of a plot of land carried out years and years ago was reduced, regard then being had to the restrictive covenant imposed upon the land?

Then as to the difficulty and danger which Mr. Sanger anticipated in the case of an owner of a plot letting that plot on a lease without reserving in the lease any restrictive covenants, he would like to ask Mr. Sanger whether the danger he apprehended would exist if a restrictive covenant applying to the lessor's land had been registered as a "charge," as provided by the Act; and, if so, whether it would not be reasonable to supplement the Act by a provision that registered charges should apply to terms granted out of the legal estate, and giving a lessee the right to ask if any and what such charges had been so registered. If, then, the lessee did not make the enquiry, would not the doctrine of constructive notice properly apply to such a lessee?

He must not take up the members' time further, but the whole Act bristled with points which might be raised. There was just one on the very last page of the Act with regard to registration. It was one of the minor matters by which the Act helped surveyors and which they would appreciate. Many, he imagined, had had difficulties with regard to registered land—in respect of the question of the plan—and had had to consider what might safely be taken

as covered by the expression "the appurtenances" when they got by way of a plan a small extract from an ordnance map, which indicated the boundaries of the land which was registered, but did not define them accurately or show vaults, &c.

Part 2 of Sub-section (3) of Section 10 of the Sixteenth Schedule said: "Registered land may be described by "means of a verbal description and a filed plan or general "map based on the ordnance map, or by reference to a deed "or other documents, a copy or extract whereof is filed at "the Registry, containing a sufficient description thereof, "and a plan or map, or otherwise as the applicant for "registration may desire"—not what the registrar might think necessary, but "as the applicant for registration "might desire"—"and the registrar may approve." Such a deed and plan might be sufficient not only to identify the premises, but also to define the boundaries. He thought if that information could be obtained under a system of registration it would be a great step in advance so far as surveyors were concerned.

Mr. Sanger had warned his hearers against considering the Act as anything more than a stage. No doubt the Act was only a stage, but it seemed to him (Mr. Bedells) that this last stage was a very great one, and especially valuable because the reforms appeared to proceed on something like definite principles upon which variations which experience might suggest could more readily be engrafted.

They might regret the passing away of picturesque incidents surviving from feudal tenures—the loss of "chap-"lets and red roses," and other like things—which infused poetry into prosaic transactions, but the *records* of those still survived, and one result of the passing of those incidents should be an added care for the due preservation of those records, and, it was hoped, their collection in such a form as to be available for the years that were to come for students and historians.

Members were much indebted to Mr. Sanger, and he begged to move a hearty vote of thanks to him for his Paper.

Mr. B. W. Adkin (Fellow) said he had much pleasure in seconding the vote of thanks to Mr. Sanger, firstly because it gave him the opportunity of thanking Mr. Sanger personally for his most admirable Paper, and secondly, because it gave him the opportunity of saying how keenly interested he himself was in the subject.

Mr. Sanger had told the members about the long fight there had been with regard to the question of land transfer, and how the particular Act under discussion was a compromise. To his own mind the most remarkable episode in connection with the struggle had been the discovery of the line of least resistance by Sir Arthur Underhill. It reminded him of an ancient body of warriors who were attacking a mediæval castle, the gates of which were both bolted and barricaded and seemed almost impossible to break down. At that juncture a quiet little man came along and said, "Excuse me, but do not you think it might "be worth while if we walked round the other way and "removed the barricades and unbolted the gates so that we "can all walk through."

The pamphlet of Sir Arthur Underhill was presented at a time when progress was exceedingly difficult. Sir Arthur's proposals were evidently thought a good deal of, because they appeared to have been adopted almost *in toto*, and now formed part of the Act. They had caused an absolute revolution in the law of real property. Nobody seemed to mind.

The Act was a dreadful thing to contemplate, but, in his opinion, it was the most important statute which had ever been passed in relation to the law of real property. It was true that it did not get rid of the whole of the old law, but it did make most tremendous alterations in the law. How far those were going to effect the surveyor it was not very easy to say. On the whole he thought they would facilitate the sale of property. As Mr. Sanger had said, there would certainly be factors to take into consideration in making valuations in the future.

He had been going to say rather a bad thing perhaps—

namely, that no surveyor could possibly be expected to understand the details of the Act; but Mr. Bedells seemed to have grasped them in a most marvellous manner. Still, he thought, no young surveyor, should he say, could be expected to understand the details. It was a lawyer's Act from first to last, and it was full of legal technicalities.

He supposed that surveyors would have to get some idea as to the principal changes which the Act effected in the law relating to real property, because a knowledge of the outlines of that law appeared to be essential to the equipment of every surveyor, and it was necessary also for the purpose of passing The Institution's examination. Mr. Sanger had pointed out with truth that the law of real property was absolutely unintelligible without a knowledge of its history. He (Mr. Adkin) would like to accentuate that point. He felt that a considerable knowledge of legal history was really a necessary part of the education of every surveyor; but of course a surveyor's knowledge of the law was a very different thing from that which was required from a professional lawyer. As a matter of fact he had oftened wondered how much knowledge of law was really necessary. It was imagined at first sight that a lawyer depended for his success upon a vast knowledge of the law, and yet he remembered that Mr. Justice Darling had written a poem relating to the Oxford Circuit in which he had spoken of "Juniors who know too much law and "leaders who never could learn any." That did not apply to conveyancers; it only referred to common-law lawyers.

Then, again, with regard to the layman. There was an excellent view on that. Lord Bacon held the view that every man should know enough law to keep himself out of it. That undoubtedly was a wise statement. But what about the surveyor? He was somewhere intermediate between the lawyer and the layman. He supposed really that the surveyor did not need to know such a great deal of law, but unfortunately there was the examiner, and the examiner held the view that ignorance of the law excused no man. Until he himself had studied for the examinations of the Council of Legal Education he had had no idea as to

the intricacies of the law of real property. Through the kind offices of that absolutely wonderful man, Sir Arthur Underhill, and many other learned members of the legal profession, he had been enabled to peep behind that impenetrable curtain which shielded legal technicalities from the view of the layman; but he should not advise anyone to attempt to peep behind that curtain unless they wanted to be a member of the legal profession.

He believed that when one discussed a Paper the right thing to do was to find some point upon which one could differ from the writer, and he was happy to say that he had found one in Mr. Sanger's Paper. Mr. Sanger said that copyholds had long since become a nuisance. A good many people agreed with him. Pupils to whom he (Mr. Adkin) had lectured for over thirty years on the subject of copyholds absolutely agreed with Mr. Sanger on that point. Sir Arthur Underhill appeared to agree with him, and a number of other conveyancers undoubtedly did so too. But many lawyers did not agree with Mr. Sanger on that point, many lawyers who were lords and stewards of manors. They thoroughly disagreed. He, himself, had lectured on copyholds, as he had said, for many years, and he had taken a great interest in them, and he was exceedingly sorry to see them go. They had been of interest to surveyors, because surveyors had frequently been engaged in dealing with copyholds and in valuing compensation payable in respect of their enfranchisement. After next year, although copyholds would be no more (they would be either freeholds or leaseholds), nevertheless, for some years to come, the valuation of the compensation to the lord of the manor would continue, and a surveyor would require to have no less knowledge of copyholds than he had at the present time.

There were many points of great interest in the Paper, but he felt he had taken up quite enough of the members' time, and he would conclude as he began by thanking the author for his capital Paper, and by seconding the proposal that a very hearty vote of thanks should be accorded to Mr. Sanger.

Mr. GRAHAM MOULD (Associate) said he had great pleasure in adding his quota of thanks to the learned lecturer for the contribution which he had made to the *Transactions* of The Institution.

The Act, as everybody agreed, was of a unique character, whether it was regarded from the point of view of its length, or from the far-reaching and comprehensive changes which it affected in the law of property. From whatever point of view it was regarded, the Act was one of unique and epoch-making character, and it was quite impossible, either by way of a single Paper, or by way of a speech of limited duration, to do anything like justice to it.

Mr. Adkin had referred, no doubt in a sarcastic vein, to the vast amount of knowledge said to be possessed by some lawyers of the law. He was reminded of a saying of some celebrated judge—whose name he had forgotten at the moment—who had been asked by a young barrister what was needful in order to command success at the Bar. The judge's reply was, "There is only one thing needful, and "that is the needful; if, in addition to that, you will take "the trouble to learn a little law, it may not materially "impede your progress."

If he might say so at once, he was in the happy position of finding himself in agreement with everything Mr. Sanger had said, and the only thing he could do which might be of any service would be to draw attention to one or two sections which might be of interest to the members. He might say that he had had several such sections noted, but as Mr. Bedells had spoken, his blue pencil had gone through those sections one by one until there were only very few left. There were two or three matters, however, which he thought might be worth glancing at.

With regard to the question of copyholds, no doubt it had been noticed that whereas under the old Acts dealing with copyholds the scale for compensation was a matter for guidance only, in the new Act under discussion it became a matter of law, binding upon the lord and the tenant unless expressly varied by the Minister of Agriculture and Fisheries.

As to the Settled Lands Acts; there were several provisions which he thought would interest surveyors, but he would draw attention to only one or two of those which seemed to him to be most important. By Section 37 the restrictions which were contained in Section 10 (2) of the Settled Land Act, 1890, requiring the consent of the trustees or an order of the court for the sale, exchange or lease by the tenant for life of the principal mansion-house, park, and land, would apply in future only if the settlement expressly so provided. The effect of that was to give greater elasticity as to dealing with the principal mansion-house and the park occupied therewith.

Then by Section 42 there was another amendment. Section 42 of the present Act extended the powers of the Settled Land Act of 1882 as to the granting of leases. Under the Settled Land Act a building lease could be granted for only 99 years, and an occupation lease could be granted for only 21 years. Under the new Act a building lease could be granted for 999 years; mining leases for 60 years, and other leases for 50 years. That marked an important innovation in the direction of giving greater power in dealing with settled land.

Another section which he ventured to think might be interesting was that one whereby the improvements which were authorised by the Settled Land Act were largely extended. He would not trouble the members with a list of the extensions, but they would find them set out in Section 65 of the Act. They included, among other things, restoration of buildings damaged or destroyed by dry-rot, structural alterations, additions to buildings, and so forth.

Dealing with the question of restrictive covenants; personally he regarded that as one of the most important sections in the Act with regard to the management of land. It laid down, as the whole basis on which compensation was to be given with reference to the removal or discharge of those covenants, that the person who got the removal or modification was not to pay for any advantage which he got by reason of such removal or modification. The sole basis of compensation was to be the loss occasioned to the person

entitled to the benefit of the restrictive covenant. It was a rather exceptional case. One did not ask how much the applicant was going to gain, but how much the other party was going to lose.

Mr. Bedells had raised a question which he thought was a great deal easier to ask than to answer. He had pointed out that the provision should not affect any right to compensation where, by reason of the imposition of the restriction, the amount of the consideration paid for the acquisition of the land was reduced, and had asked how and when was one to interpret that. The answer he (Mr. Mould) was thankful to say was that the interpretation of that question would not rest with any lawyer, no matter how eminent, but it would rest with one of the official surveyors under the Acquisition of Land Act, who would bring his practical mind to bear on the point, and if, in fact, he was satisfied that no smaller consideration was paid for the land because of that covenant, he would act accordingly. It seemed to be entirely a question of fact, and therefore he apprehended that it would not be a matter of law subject to appeal. If, on the other hand, the official surveyor thought the land was conveyed for a smaller consideration because of the imposition of the covenant, then he would give effect to that view. It was one of those things which looked extremely difficult on paper, but in practice he should not be surprised if it worked out fairly well.

There were one or two other provisions in the Act to which he would like to draw attention. As the law stood at the present time, one of the hardships from which tenants suffered was that where they had offended against the provisions of a lease requiring them not to assign or sub-let without consent they could get no relief. It was the one breach as to which Section 14 of the Conveyancing Act did not grant any relief. As from the passing of the 1922 Act they would be able to get relief, and there would not be a repetition of those rather scandalous cases where the lessee had without consent assigned to a perfectly responsible person, but had omitted to ask the formal consent of the lessor to his so doing.

As had already been mentioned, the root of title on an open contract was reduced from 40 to 30 years. Another stipulation dealing with sales was that on any sale a stipulation which prevented a purchaser from employing his own solicitor was void. He believed such a practice had rather grown up in certain parts of the country. That was Section 104. Another section, Section 105, dealt with their old friend assurance money, which became payable after a contract for sale had been entered into. Section 105 provided that the vendor should, upon receipt, pay it to the purchaser subject to any stipulation to the contrary.

There were numerous other provisions in the Act which were worthy of the deepest study. Taking the Act as a whole, did it not mark an important step in the right direction? He did not mean to say that the benefit of it would be felt within two or three years' time. Probably 10, 20 or 30 years would pass before its full benefit would be felt; but he was quite sure that, as the present generation of surveyors were unselfish, they would not mind not getting a personal benefit from it as long as their descendents obtained such benefit. The Act would be of enormous benefit to their descendents.

Like one or two of the previous speakers he much regretted the passing away of copyholds. That was one of those picturesque branches of the law which one did not like to see done away with. All that could be said was that no legal subject could have desired a more ceremonious burial than was afforded to copyholds by the 1922 Act. Copyholds, as the members knew, had been on the wane for many years, and fresh copyholds could not be created. Now they would be finally put an end to as from the 1st January, 1925.

There was one point which he would like to mention in conclusion. In reading the Act one should be rather careful that one looked at the definitions which were laid down; otherwise one might be much misled. He would take, for instance, an expression such as "term of years." In the ordinary way he thought when surveyors spoke of a term of years they meant a term of certainly a considerable number of years. The Act interpreted "term of years" as in-

cluding a yearly tenancy or even a fraction of a year. Therefore it was necessary to took at the definitions in order to see the exact significance of the particular phrase employed.

Mr. J. W. Tyler (Fellow) said he supposed that legal fictions had always been a source of wonderment and curiosity, mixed with a certain amount of awe, to surveyors, particularly young surveyors. He remembered when he had been entering for his examination he experienced those feelings.

The Act under discussion seemed to be likely to deal a blow at some of those fictions and to remove them from the path, and he was sure the members were exceedingly obliged to Mr. Sanger for coming and giving them the benefit of his legal knowledge in explaining, to some extent at any rate, such an apparently very intricate Act. He said "apparently," because personally he did not pretend to have made any endeavour as yet to understand it at all. It was so monumental and huge that he, for one, felt he must wait until other gentlemen better able than himself dived into it and expounded it. That was one of the reasons why he was present that evening listening to what was being said. The members had also had the advantage of hearing Mr. Mould, who had made some explicit remarks dealing with legal points, and they ought to be thankful to such gentlemen for coming and giving them their assistance.

Surveyors had been brought into practical contact with those curious legal fictions and customs, and with regard to copyholds (which most surveyors would regret to see pass away) he supposed a good many had had some amusing and curious experiences with regard to them. He recollected when upon taking charge of an estate his client had been most insistent and anxious that he should see that certain steps were taken under an old custom which, if omitted (so his client had said), would jeopardise his client's title to the manor. Mr. Bedells had suggested that a museum might be set up in the future to contain relics of these curious customs, and if it were, perhaps one item in connection with

that manor would find its way into it. He recollected that every year a notch had to be cut in a wand in celebration of the holding of a sort of semi-religious service, which was supposed to be secret. It was held on the first Sunday after Michaelmas Day in every year at one of the principal farm-houses in the manor. He had officiated at the ceremony and had cut the notches in due course. He supposed that would find its way into the museum in time.

With regard to the registration of titles, reference had been made to the Land Transfer Act of 1897, and to the fact that compulsory registration in a county could only take effect if the county council passed a resolution in favour of it. He must say he had several times wondered why land transfer by registration had not been extended more than it had been. Of course they knew the complication involved as compared with colonial transfer of land. He had had some experience in the transfer of land in Canada, where it was quite simple; it was done on half a sheet of paper. The question occurred to him whether there was sufficient motive power behind the county councils to move forward the demand for land transfer by registration. He had heard a great deal about the obstacles which there were in the way, and how lawyers had not found it to act well. It did seem to him that there ought to be an extension of the system of land transfer and registration, and a simplification of the proceedings.

It had been said that it was impossible to understand the Act without a knowledge of law going back as far as the Plantagenets. All he could say was that, if that were so, he would leave those gentlemen who had the necessary knowledge to study it for him.

Perpetually renewable leaseholds had been referred to. Mr. Sanger had said he thought they were more or less peculiar to Liverpool. Mr. Bedells had referred to them in London. He himself knew of them in certain parts of the West of England. He remembered once enquiring of someone, who ought to have known, why it was they were so prevalent there—in Devonshire particularly—and he had been told that the nature of the people was so speculative and sporting in that part of the country that

they liked the uncertainty ; at any rate, they did not grumble at them.

On page 132 the actual position with regard to trusts and settlements did not seem to be altogether clear to him. He hoped, perhaps by Mr. Sanger's help or by the assistance of other legal gentlemen, some further light would be thrown on that point ; and if they would explain it in simple language so that non-lawyers could understand it, he would be much obliged.

It had been suggested that a Paper on the extension of powers of tenants for life under the Settled Lands Acts should be written by a surveyor. He thought that was an excellent suggestion, as long as he himself was not asked to write it.

The powers of trustees to expend capital on improvements was a point which exercised a good many surveyors—building development, and so on. He had a case at present where he wanted to make a road. It was settled land, and he was told it could not be done ; the capital could not be spent by the trustees without the consent of the remainder-man. An effort had been made to obtain that consent, but there were certain obstacles in the way ; the remainder-man was not willing to give it. There was no question that the road ought to be made at once, as it would give the greatest benefit to all parties concerned, but the proceedings seemed to be clogged. He did not know whether the Act was going to enable a thing of that kind to be done ; but if it was, so much the better.

With regard to restrictive covenants, was the provision made by Section 90 one which would override future town-planning schemes ? He was referring rather to the restrictions which might be introduced in connection with such a matter as zoning. At the last meeting a Paper on zoning had been read, and the question had then been discussed as to restrictions on buildings—as to providing certain classes of buildings for certain places. He did not know whether the provisions of Section 90 would override any provision in the Town-Planning Acts on the question of restrictions. It would be rather interesting to know that. The local

authorities had been referred to in connection with that point. Some few years ago he had made provision in the development of an estate whereby the restrictions might be modified on certain eventualities by the local authority. Under the Act they were discussing the local authority were apparently merely witnesses as to the necessity for the restriction, or removal or modification of the restriction. The restriction had to be removed or modified by the tribunal to which reference had been made. But it was rather interesting to know that one had in the past actually used the local authority as the people who might vary one's restrictions. He had mentioned that to one gentleman who had spoken at the last meeting, but that gentleman had not at all agreed that the local authorities were the right people to deal with a question of that kind. He had not been able to get from him his special reasons, but it seemed to him that they represented the ratepayers and voters of the district, who were the people who, after all, had probably the biggest stake in it, and personally he could not find any other more suitable body of persons to do it than the local authority.

The defect in the operation of Section 95 (2), referred to on page 135, seemed a serious matter. He supposed there was no question that it was as Mr. Sanger had given it, but if it was so, it certainly ought to be dealt with, because, as a valuer, he must certainly say that it would cause trouble. He could only hope that something would be done to put it right in one of the amending Acts to which Mr. Bedells had referred.

Mr. W. H. Scanlan (Professional Associate) said it was with great pleasure that he added his thanks to those of previous speakers to Mr. Sanger for his Paper. Having studied the complex Act of 1922, the thing that had struck him most about the Paper was the concise manner in which Mr. Sanger had conveyed to the members its most salient features.

Before it was possible to appreciate the improvements which the Act would bring about with regard to the existing tenure and conveying of land, one must have a knowledge, as

a previous speaker had remarked, of the history of the various interests in the land. When he had started to study the Act he thought he knew a little about the history of land (thanks to Mr. Adkin and one or two others), but he had soon come to the conclusion that he knew very little, and it had only been by the aid of Sir Arthur Underhill's article that he had been able to understand many of the provisions of the Act.

The abolition of copyholds and manorial indents would be regretted by few, and would prove a thing of joy to the students of the future. Although Mr. Adkin regretted it, he was sure the students would not. Unfortunately, however, the Act allowed a period of ten years for compensation agreements, and a further five years during which the lord of the manor could claim compensation. So that for about another fifteen years the students would have to look forward to studying the provisions of copyhold. The Act provided certain scales of compensation to the lord of the manor, and also to the steward for loss of office.

With regard to leaseholds, some people regretted that ordinary leasehold interests had not been enfranchised by the Act. He failed to understand why, as he thought the form was one of the most convenient forms of investing in property at the present time, especially to the small person who was starting in business and who had not a large capital with which to buy freehold, particularly in London. Although a number of surveyors were always crying out against leasehold interests, he was sure they were much appreciated by the small investor.

There were one or two small points to which he would like to draw attention in the Act. The conversion of leaseholds for life or lives to a term of 90 years certain would render that form of tenure less speculative. The provisions of the Act with regard to settlements and trusts were, he thought, very intricate, and required careful analysis. Mr. Sanger had dissected them very well, and clearly showed the effect of the provisions. He himself had read them through many times, and even now he could not understand some of them. The setting up of the authority, under Section 90,

was a belated boon to freeholders and also to long leaseholders; much development had been held up by restrictive covenants, which were often made by idealists who had particular fads and fancies quite unsuited for the neighbourhood in which they were imposed. In the hands of the authority he was sure all interests would be safeguarded and future improvements made possible. The simplification of conveyancing was a step in the right direction, and the substitution of 30 for 40 years as the root of title should reduce the cost of transfer of property. Unfortunately the extension of registration under the Land Transfer Acts to the whole of England had been deferred for ten years; at the end of that period it was to be reconsidered.

Mr. Bedells had raised a point on the Partition Acts and party-walls. That, he thought, might possibly prove a source of difficulty. He had had a case during the present week under a lease not more than 50 years old. There was no definition as to the party-walls. The district surveyor had served a notice in respect of one party-wall, and he (Mr. Scanlan) had written to the adjoining owner suggesting that he should pay a moiety towards the cost of rebuilding, but that gentlemen had replied, "No, the whole of the wall "belongs to you." Then the district surveyor had served a dangerous structure notice in respect of the other party-wall. He (Mr. Scanlan) had then approached the other adjoining owner, who said, "The whole of the wall belongs to you." He went to the original freeholders, who said they had no knowledge of the matter at all, and did not know to whom the walls belonged, and suggested that some arrangement should be come to, but both parties refused to pay a penny towards the cost of rebuilding.

In the original Bill there had been a section which provided for the better working of mines and minerals. He could not trace anything about it in the Act itself. He thought it was to be regretted, as it would certainly help in certain districts to improve the working of minerals and mines which were at present very difficult to work owing to two or three people being in ownership.

Under settlements a new lease might be granted to take

effect only when the existing lease had not more than seven years to run. That meant to say that under settlements the tenant for life or the trustees might not grant a lease when there was more than seven years of the existing lease unexpired. That might hang up developments. In many cases people bought and wanted to develop in the future. If they were going to be restricted to seven years before the expiration of the existing lease before they could grant another one, it was going to hang up the whole thing. Parts of Oxford Street would come under that particular part of the Act.

Mr. Mould had spoken about the covenant by which a lessor restricted the right of the purchaser to employ his own solicitor. He might add to that, that one of the conditions in lieu of that covenant was that the lessee should pay to the lessor a fee of one guinea for the registration of each assignment of his title, and the power of entry on breach should extend to that covenant.

The previous speaker had raised a point about land held by trustees and the development of such land. The trustees or the tenant for life had power to contract that part of the purchase money, not exceeding two-thirds, should be secured on mortgage for a term not less than 500 years, and also to advance money for the improvement of the settled estates.

Mr. J. M. Hannon (Professional Associate) said that Mr. Tyler, referring to the recent Paper on zoning, had raised a point as to whether the restrictions under the Town Planning Act could be altered under the provisions of Section 90 of the new Act. A lawyer could better answer this question, but his own idea was that the restrictions in the two cases were different in character; apart from that, Section 90 of the new Act referred to *obsolete* restrictions, which might have been very good in their day, but which had now got past any use which they might have had. On the other hand, any restrictions which might hereafter be imposed under the Town Planning Act should serve a useful public purpose for a good many years to come. If in 100 or 1,000 years time, when neither Mr. Tyler nor himself would be interested in

them, they were found to be obsolete, he took it they could then be dealt with.

Mr. A. B. Thornton (Fellow) said the last speaker had referred to the point which he had desired to make. The question of zoning under town-planning schemes should be kept distinct from restrictive covenants. The latter were rights of one owner of property as against another: zoning, however, was for the benefit of the community at large. When zoning had been set up under a town-planning scheme, it could be removed or varied only by another town-planning scheme adopted for the same area. He thought it was very necessary to keep that distinction in mind.

If Mr. Tyler intended to suggest that the local authority would be the better tribunal to consider the question of the removal of restrictive covenants which had grown up with regard to land, he could not agree with him. He thought the tribunal which was set up under the Law of Property Act, namely, the official arbitrator under the Acquisition of Land Act, was the better tribunal to decide such matters. The local authorities, in dealing with their town-planning schemes, already had a tremendous burden thrown upon them, as those who had to do with such schemes were well aware.

There was one other remark which he wished to make, and that was he looked forward as a surveyor to the day when there would be compulsory land registration throughout the kingdom. He believed, if that could be adopted, the public would be encouraged to hold land not only for purposes of occupation but for purposes of investment. After all, land, if it was properly bought and managed, was one of the finest possible investments. It did not "run away in "a night" like some stocks and shares. The great factor which mitigated against it to-day was, he believed, the cumbersomeness of its transfer. If there could be one common form of transfer well understood, and in vogue throughout the kingdom, it would be a very good thing for property in general.

Mr. J. W. Tyler (Fellow) said he desired to correct a

misapprehension which had arisen in connection with the remarks of the last speaker. He had not intended to suggest that a local authority would in future be a better authority to deal with the question than the tribunal. He had said that in the past local authorities had been the best body, but he agreed that now the tribunal provided would be better than the local authority.

The vote of thanks was then put and carried with acclamation.

Mr. SANGER, in reply, said he would not take up the time of the members any longer by going into any of the many interesting questions which had been raised upon the Paper. He had considered them all very carefully, particularly the point about restrictive covenants. He had raised that point quite deliberately in the most blunt way in order that he should not shirk it and in order that attention might be generally called to it. There were arguments of a complicated and technical nature against his view which he would not go into.

It was always a pleasure to a member of one profession when he had the honour to be invited by the members of another profession to address them. The legal profession and the surveying profession were always meeting at certain points. The former were always seeing reports and valuations by surveyors, and they could not get on without surveyors, and although, no doubt, surveyors could get on without lawyers, still, at the present time, they had to come in contact. He therefore felt particularly honoured, as representing his profession, that such a body as The Surveyors' Institution should have asked him to read a Paper. It had given him very great pleasure, and also, he might add, very great profit to have been present that evening.

Written communication received from Mr. HAROLD GRIFFIN (Fellow) :—

The first thought which occurs to me is that if the various parts of the Bill had been presented separately, and dealt with in five or six successive sessions of Parliament, laymen would have had some little chance of considering them, but it seemed hopeless to attempt to wade through so bulky a document while it was under discussion.

Without attempting to deny the improvements which it is, at all events, expected to achieve, some of us cannot help thinking that the desire of Lord Chancellors for their name to be handed down to posterity as the authors of reforms in the law has had a good deal to do with the passing of this most unwieldy piece of legislation.

It appears impossible nowadays to have any legislation concerning real property unless it deprives people without compensation of some rights they have hitherto possessed.

Under this Act the mortgagee will lose the legal estate. He is to have a sort of fictitious leasehold interest, and yet, in case of default by the mortagor of a freehold property, the mortgagee will have power to sell and convey the freehold to a purchaser.

Hitherto, on enfranchisement of copyholds, the right of escheat remained vested in the lord of the manor. Now he is to lose that right.

There is an interesting manor in London in which the lordship is held in trust for the benefit of the copyholders. Many years ago some valuable properties in the manor were escheated, and the copyholders enjoyed the income from those properties. What reform is effected by the new rule ?

Then as to a widow's right to dower. When I was a young man, many solicitors took a pride in drawing conveyances so as to bar the dower, and in calling the attention of their clients to the fact. An old solicitor with whom I transacted considerable business did not adopt this practice, and I asked him the reason. He said because if ever the

widow has the chance to claim it, it will be just when she most needs it.

I have also known cases of property standing in the name of a married woman where the custom of curtesy has been of great importance to the husband.

Then in the case of leaseholds with a right of perpetual renewal. One would have thought the obvious method of dealing with these would have been to enlarge them into freeholds subject to a rent-charge, and possibly a right to redeem the rent-charge.

I have just dotted down a few criticisms on points which have happened to come within my own experience, but, as stated previously, the size of the Act precludes any close examination of it.

Paper 475.

THE RE-VALUATION FOR LANDLORD'S PROPERTY TAX.—SCHEDULE A.

By C. Gerald Eve (Member of Council).

To be read at the Ordinary General Meeting of The Surveyors' Institution, on Monday, 12th March, 1923.

[This Paper treats only with England and Wales, excluding the Metropolis as defined by the Valuation (Metropolis) Act, 1869.

References made to sections refer, unless otherwise stated, to the Income Tax Act, 1918, which consolidated the Income Tax Acts up to and including the Finance Act, 1918.]

From time to time one of the yearly Finance Acts orders a general re-valuation to be made for Schedule A (Landlord's Property Tax). The last three such valuations were made for the fiscal years 1910-11, 1903-4, and 1898-9.

It had become customary to order new valuations about every five years, but the war deterred Parliament from providing in the Finance Act, 1915, for a fresh valuation. After the Armistice the efforts (which then proved abortive) of the Government to frame a satisfactory new Valuation Bill were responsible for further delay until by the Finance Act, 1922, a re-valuation for Schedule A was at length ordered.

In the years intermediate between years of re-valuation each yearly Finance Act always provided that the annual value of the previous year was to be adopted as the annual value for the current year of assessment for the purposes of Schedule A, Schedule B. and Inhabited House Duty.

Consequently the annual values fixed for the year 1910-11 have been in force for each subsequent year, and will be up to the year ending 5th April, 1923.

The Commissioners and surveyors of taxes have had no power to alter the annual value of any property chargeable

to Schedule A since they made the 1910-11 valuation however much the rental value or actual rent of such property may have risen since that date.

This statement requires slight qualification in respect of "additional assessments," which I deal with later.

To this extent, therefore, property-owners and tithe-owners have reason to be thankful that the ordinary five years' interval has been extended to twelve years, and that it has, greatly to their advantage, covered the war and post-war periods of high rent, and high tithe. Property-owners in the Metropolis and in Scotland have not enjoyed this benefit; the former have been subjected to statutory re-valuations in 1915 and 1920, and the latter to statutory annual re-valuations which are binding both for Schedule A tax and for rates. But I am bound to say that, as regards Scotland, it is very much doubted whether it was lawful, as was in fact done, to charge Schedule A on the successive annual re-valuations, and whether rather the charge should not have remained on the annual values in the 1910-11 re-valuation until the re-valuation is in force ordered under the Finance Act, 1922.

The re-valuation now to be made will naturally show increased annual values in the aggregate, because most properties command more rent now than in 1910, while tithe, worth £70 7*s.* 8*d.* in 1910, now stands at £109 3*s.* 11*d.* Tithe-owners in particular must expect very much higher assessments.

Section 32 (3) and paragraph 3 of the Second Schedule of the Finance Act, 1922, make it clear that the criterion or basis of the new valuation is to be the annual value of the property as for the year ending 5th April, 1923. The new annual values will first become operative for the Schedule A tax payable on 1st January, 1924 (and the second instalment due on 1st July, 1924).

The expression "annual value" in connection with Schedule A means the gross annual value before deductions therefrom are made for repairs, &c., to arrive at what is commonly called "net Schedule A assessment," or the assessment as reduced for the purpose of collection.

Annual value is defined in Rule 1 of Schedule A of the Income Tax Act, 1918:—

> "The annual value shall be understood to be—
>
> "(1) The amount of the rent by the year at which they are let, if they are let at a rack-rent and the amount of that rent has been fixed by agreement commencing within the period of seven years preceding the 5th April next before the time of making the assessment; or
>
> "(2) If they are not let at a rack-rent so fixed, then the rack-rent at which they are worth to be let by the year."

"Worth to be let by the year" means what a tenant, taking one year with another, may fairly and reasonably be expected and required to pay. (*Gundry* v. *Dunham* [1915], 7 Tax Cases.)

It is very important to observe that where a *bona fide* let at a rack-rent has been made by agreement commencing within seven years before 5th April, 1923, such rent is *ipso facto* to be the annual value, and the Commissioners have no power or right to value.

If, however, the rent is by such agreement inclusive of sums for any public local rates, taxes or assessments which are by law charges upon the occupier, then such rent is to be reduced by a deduction of the sums paid by the landlord in and for the year *preceding* the year of assessment. (Note, in these days of slightly decreasing rates, the advantage of the word "preceding.")

If by such agreement the tenant undertook to do repairs (or make improvements), such rent is to be adjusted by adding to such rent some sum in respect of the repairs.

Where annual value is to be ascertained by estimation, it is to be fixed on similar assumptions as to the respective burdens of owner and occupier, namely, that the tenant pays tenant's rates and taxes and the landlord does the repairs.

"Rack-rent" is the full annual value of the tenement on

which the rent is charged or as near as possible. (*Per* Lopes, L.J., *Stevens* v. *Bishop* [1888], 57 L. J., Q.B., p. 287; and 2 Tax Cases, p. 255.)

Where a premium was paid in addition to the rent reserved, or where a relative of the tenant let to the latter at a favourable or low rent, obviously the rents would not be rack-rent.

It is a question of fact in each case, but the obvious intention is that if a landlord enjoys a certain rent which was genuinely intended to be a rent and was fixed within seven years by both parties acting with commercial minds, the landlord is to be taxed on such actual rent-income, and the Crown is saved the trouble and expense of ascertaining the real annual value. I think this excellent principle should commend itself to all concerned whether taxpayer or officials, and that any attempts to wrestle with surveyors of taxes by inventing subtle meanings for the word "rack-" rent" or to argue that the actual rent is higher than the rack-rent are to be deprecated. If the landlord has got the better of his tenant he ought not to avoid paying tax on his gains, while if the tenant has got the better of the bargain it would be hard on the landlord to pay income tax on a rental value in excess of his rent-income.

An interesting point arises in connection with rents raised under the Rent Restriction Acts in connection with the words of Rule I., "and the amount of that rent has " been fixed by agreement commencing within the period " of seven years" preceding the 5th April, 1923.

It is important that all persons chargeable to Schedule A should at once consider whether the assessments which they are shortly expecting should be made by adopting the rack-rent or by the "worth to be let" estimate.

Assume an agreement for a property commenced within the seven years, say, 1917, at a rent of £50, tenant to pay rates and landlord to repair. Under the Rent Restriction Act the landlord, in 1921, gave a notice to quit, as well as the notice specified in the Rent Act, to raise the rent to £70. The tenant could have acted on the notice to quit and have quitted and terminated his tenancy. He elected to stay,

and by so doing accepted the new term of his agreement, namely, to pay £70.

Therefore the £70 is the "rent fixed *by agreement* commencing within the period of seven years." Consequently the gross annual value in the assessment must be £70, and no estimate of annual value would be lawful.

If, however, the landlord failed to give the necessary notice to quit, and merely by notice raised the rent, his action was unlawful (*Kerr* v. *Bride*) and no valid agreement was constituted; hence the £70, whether paid or not, cannot be looked to for the purposes of Rule I. Instead, the £50 must be the annual value, as it still is the rent at which the property *is* let, and it was so let by the last valid agreement within seven years.

The effect of the above is not unjust; the landlord who is receiving £70 and the landlord who finds he can only legally collect £50 will respectively be taxed on their rent-incomes.

But the question is interesting and important as indicating that rents legally increased (notices to quit having been served) under the Rent Restriction Acts, since 6th April, 1916 (the start of the seven years' period), will fall within Schedule A, Rule I., namely, within the principle that such rents are to be the annual values.

As the valuation is now in course of completion it was obviously an easier and more practical course to provide for the ascertainment of concurrent 1922-23 values than for a guess at values that may obtain later.

But there is an important benefit accorded to the taxpayer by the proviso to Section 32 (3) of the Finance Act. 1922, which reads:—

> "Provided that any person who proves to the satisfaction of the General Commissioners that the annual value for the year 1923-24 of any land, tenement, hereditament . . . . or of any inhabited dwelling-house, in respect of which he has been assessed for the year 1923-24 is less than the annual value on which the assessment was based, shall be entitled to a reduction of the assessment to an amount based on the annual value

for the year 1923-24, estimated in accordance with the rules applicable to assessments under No. I. or No. II. of Schedule A or the enactments relating to inhabited house duty, as the case may be."

Thus though annual value obtaining during the year ending 6th April, 1923, is the annual value to be used in the re-valuation, any drop in annual value in the succeeding year can be taken advantage of by the taxpayer. But each of these annual values must be calculated according to Rule I. of Schedule A; consequently if the rack-rent fixed within seven years is the same in both years, no reduction would be forthcoming however much be the real drop in values as distinct from actual rents.

The proviso above presents difficulties, however, the main one being as to *when* the person is to prove. I think it must be by way of giving notice of appeal within the allowed 21 days after the date of the notice of the new assessment.

Assume the latter notice is dated 15th April, 1923, how can the party establish that the annual value for the year ending 5th April, 1924, of which he has but 31 days' experience, is less than the annual value for the year ending 5th April, 1923?

I can find no provision for any special time limit, and therefore it seems necessary that every party should give notice of appeal on this point of a reduced 1923-4 value within the 21 days in cases where the owner was occupier, as well as in the other cases where the annual value for the assessment was based on estimate and not by adopting the actual rack-rent fixed within seven years. Where, however, rack-rent was properly the basis, and the party knows that such rent will not be reduced during the year ending 5th April, 1924, an appeal on this point would be fruitless and therefore needless.

The General Commissioners can limit the time within which appeals may be heard, so that an appeal heard in June would permit of only two months' experience of the annual values obtaining in the latter year.

If the proof is not to be adduced by way of notice of appeal within 21 days, it would seem that the party could

adduce proof in any manner at any time until the next general re-valuation is ordered, say five years hence. This cannot have been the intention.

I think that the law should be amended so that the proof should be made by way of appeal given at any time before 29th September, 1923; or, if the 21 days after notice of assessment be insisted upon, then that the General Commissioners should be required to postpone the hearing of appeals on this point until such 29th September.

Net Schedule A.

Dealing now with net Schedule A on which tax is levied and which is deduced from the annual value, consideration has to be given to outgoings such as Tithe, Land Tax, Rates, Bank or Drainage Rates, Repairs, and Embanking against the sea and tidal waters on a 21 years' average.

The way in which these form deductions can best be indicated by examples, which are given below. In each case it is assumed that the landlord does the repairs, and that the tithe-rent charge commuted under the Tithe Act, 1836, is separately assessed to Schedule A and not assessed with the land out of which it arises :—

A Farm.—Yearly tenant; rent £300, fixed eight years ago; *owner* pays tithe £20, land tax £5, and drainage rate £12. House is a farmhouse; fair rental value in 1922-23 is £315.

Schedule A, Gross (£315 less £20 tithe) ...		£295
Deductions :—		
Land tax	£5	
Drainage rate	12	
Repairs, &c., 1-8th of £315 ...	39	
		56
Net Schedule A ...		£239

Another Farm.—Yearly tenant; rent £400, fixed five years ago; tithe free, owner pays rates £40, and tenant

pays land tax £3. House is *not* a farmhouse, and is worth £38.

Schedule A, Gross (£400 less £40 rates plus land tax £3)			£363
Deductions :—			
Land tax	£3		
Repairs, &c., 1-8th of £325 ...	41		
„ „ 1-5th of 38 ...	7		
			51
	£363		
Net Schedule A ...			£312

Another Farm.—Owner is occupier; house is a farmhouse; six cottages on the farm worth £30; fair rental value £350 if landlord paid tithe of £25; land tax is redeemed.

Schedule A, Gross (£350 less £25 tithe) ...			£325
Deductions :—			
Repairs, &c., 1-8th of £295 ...	£37		
„ „ 1-4th of 30 ...	8		
			45
	£325		
Net Schedule A ...			£280

In all cases the tithe and rates are to be taken at the amount paid in the year preceding the year of assessment.

The new repair allowances are set out in Section 24 of the Finance Act, 1922, namely, for lands inclusive of farm houses and buildings, 1-8th. For other houses and buildings the allowances are: Not exceeding £20, 1-4th; over £20 and not exceeding £40, 1-5th; over £40, 1-6th.

These scales are not to operate absurdly in respect of annual values near the respective limits, and a proviso states, in effect, that as 1-5th of £22 would be only £4 8*s*. whereas 1-4th of £20 is £5, the allowance in such a case is to be £5.

Similarly 1-6th of £43 would be only £7 3*s*. 4*d*., whereas

1-5th of £40 is £8. The allowance in such a case is to be £8.

These allowances apply in the cases of owner-occupier or where a tenant occupies and the owner undertakes the repairs.

But where a tenant undertakes the repairs the allowance is to be such a sum not exceeding the 1-4th, 1-5th or 1-6th as may be necessary to reduce the amount of the asessment to the amount of rent payable by the tenant.

The rule as regards the 1-8th allowances for farms and the 1-4th, 1-5th and 1-6th in respect of other houses and buildings is not to apply where the assessment is more than those fractions below the rent (after deducting from such rent the usual deductions allowed in arriving at assessments).

Cases frequently arise in practice where the owner does most of the repairs and the tenant the remainder. It is not the custom of surveyors of taxes, especially in the case of farms, to be too precise over such matters, and the rent is not generally first increased so as to accord with a rent where the owner does all repairs.

In the example assessments given above it will be noted that the repairing allowances are calculated on the figure of value *before* the tithe is deducted. It is true that the Finance Act, 1922, enacts that the 1-8th, 1-4th, 1-5th and 1-6th are to be applied to "the amount of the assessment," which might imply the value less tithe. But the earlier Income Tax Acts employed exactly the same phraseology, and it has been the invariable practice of surveyors of taxes since 1894, when the repair allowances were first started, to calculate the repairs on the value inclusive of tithe.

Indeed the history and framework of the Income Tax Acts almost compel them to such a course. Schedule B, the tax on farming profits, is based by law on annual value inclusive of tithes. It is the truer measure, as profits are measured better by rents paid than by the rents netted by owners after paying thereout tithes (which may be £1 or £100). Similarly with the cost of repairs to farms; it varies more directly with gross rents than with rents less

tithes. By the Income Tax Act, 1853, it first became possible to "lift out" the tithe from the assessment of lands and separately to assess it to Schedule A on the application of the tithe-owner. In most cases this is done, but not in all. It would be absurd to differentiate, when applying repairing allowances, between, for example, two farms each let at £400 and each being subject to £100 tithe, and to allow for repairs 1-8th of £400 in one case and 1-8th of only £300 in the other case merely because the tithe-owner in the former case had refrained from applying for a separate assessment of his tithe.

Assessment of Tithe Rent-Charge.

Below is given an example of an assessment of a commuted tithe rent-charge :—

Gross Schedule A value for year 1922-23 ...		£300
Deductions :—		
Land tax	£4	
Rates	80	
Chancel repairs	10	
Actual cost of collection	15	
Tenths	4	
First-fruits, £20	—	
		113
Net Schedule A ...		£187

The deductions are to be the amounts actually paid in the year 1922-23, the year preceding the year of assessment. The rates should be the full amount including the portion paid by the Imperial Revenue.

First-fruits, being paid for one year only, should be allowed by claiming repayment of tax on £20.

Chancel repairs are also a proper deduction in assessing lands where not chargeable against tithe assessments.

Assessment of Woodlands and Sporting Rights.

There is no special provision as to woodlands, and consequently, as they are never let by the year at a rack-rent,

they are to be assessed at what they may be worth to let by the year, a difficult estimate to make because of the annual value of the timber and trees. By custom the surveyors of taxes generally adopt the poor rate assessments, and inasmuch as the latter are, under the Rating Act, 1874, to be the "unimproved" or prairie values, it is a custom much to be commended by owners.

For sporting rights also there is no express provision, and it is not possible to lay down any precise rules. The practice is to assess them with the lands concerned unless neither the owner nor occupier of the land but a third party rents them, in which case they are generally assessed under Schedule D, though it is arguable whether they should not be assessed under Rule 7 of No. II. of Schedule A, but the point is quite immaterial to the taxpayer.

The procedure in the making and notifying of the Assessments.

On or before the day appointed (which in the case of the present valuation must not be later than 30th November, 1922) by the local or General Commissioners every assessor (to be appointed by the General Commissioners before 19th August, 1922), is to deliver to these Commissioners his certificate of assessments under Schedule A, and they, on their acceptance of them, shall deliver them forthwith to the surveyor of taxes for his examination, who shall compare the assessments with the last poor rate and generally satisfy himself that they have been made in accordance with the Income Tax Acts and may rectify any assessment in any respect. Section 113. Section 115.

The surveyor of taxes shall in all his duties observe and follow the orders, instructions and directions of the Commissioners of Inland Revenue. The surveyor of taxes, when engaged in rectifying any assessment of the assessors, is presumably not debarred from using any sources of information or assistance that may legitimately be open to him, and that he may be authorised to seek by the Commissioners of Inland Revenue, such as information or Section 75.

opinions that the valuers of the Valuation Office of Inland Revenue may afford him from their existing records or from their present or former knowledge of any property.

If a person chargeable fails after due notice to make a return of the annual value, or the General Commissioners are not satisfied with his statement which has been delivered,
ection 116 the surveyor of taxes or assessor, on obtaining a signed order of such Commissioners to that effect, may, with the assistance of a person of skill named in the order, view and examine any property chargeable, after giving the occupier two days' notice. It would be open to the General Commissioners to nominate *any* person of skill. The words "may, "with the assistance of a person of skill, view and examine" seem to imply that it is essential in law that the surveyor of taxes or assessor must conduct such skilled person over the property inspected.

It should be noted that there is no statutory power enabling the officials of the Valuation Office actually to view and examine properties for the purpose of the general re-valuation for Schedule A, unless they can be worked into the laborious procedure just mentioned.

It is well known, however, that the district valuers, unaccompanied by the surveyor or assessor, have been viewing and examining certain properties for Schedule A purposes, and it is conceivable that some of the owners and occupiers who have permitted inspection may be unaware of their power to refuse entry unless the district valuer be accompanied by the surveyor of taxes or assessor, and has been nominated by the General Commissioners consequent upon the occupier's failure to make a return of their annual values or upon the dissatisfaction of the Commissioners with any statement delivered by the occupiers.

My view is that, while it may be legitimate for the surveyors of taxes (provided they do not delegate their office or duty) to seek and consider the advice or opinion of district valuers when rectifying any assessment brought in by the local assessor, the district valuers should not be expected to view properties until the law so provides.

When district valuers request an occupier to permit them

to view, they must be unable to quote any statutory authority in support of their request. Thus both the occupier and the district valuer are put in false positions. The occupier probably imagines that the district valuer has a legal right behind him, while the district valuer knows that he has not but must do his best to get access to the property, and therefore may be tempted to allow the occupier to remain under the wrong impression.

The surveyor of taxes suggests "any error, mistake, "omission, or fraud" to the General Commissioners, who shall, to the best of their judgment, rectify the assessments and shall sign and allow them. This latter act, which apparently constitutes the "making" of any assessment, cannot be done until on or after 6th April, 1923. Section 120. Section 32 (1) of 1922.

The General Commissioners shall then cause notice of the assessments to be given either by (*a*) delivering a copy to the assessor of the parish for inspection by the persons assessed, together with a notice of the day for hearing appeals, such notice to be affixed on or near the church door or other public place in the parish, or (*b*) notifying the amount of the assessment and of the day of appeal to each person assessed. The usual practice is to follow both courses. Section 134.

It is probable that these notices of assessment will be issued in April and May, 1923.

Appeals to the General Commissioners.

A person aggrieved (whether owner, person in receipt of the rent or occupier) by the amount of the annual value may, within 21 days after the date of the notice of assessment, give written notice to the surveyor of taxes of appeal to the General Commissioners. Section 136.

There is no statutory obligation to state the grounds of appeal in the notice of appeal. It is reasonable and desirable to outline them in some way, but, as will be noticed later from my remarks on Section 138, it is important, with reference to liability as to costs of valuation, that the annual value desired should not be stated (or alleged), or stated only after the fullest advice and consideration in cases

where the appellant has decided to require the General Commissioners to determine the appeal by nominating a person of skill to fix the annual value.

I have previously drawn attention to the fact that it would be the safer course to insert in any notice of appeal, as one of the grounds of appeal, a statement that "the "annual value for the year 1923-4 is less than the annual "value on which the assessment appealed against was "based."

Section 137. Under Section 137 of the Income Tax Act, 1918, the General Commissioners "may permit any barrister or "solicitor to plead before them on behalf of the appellant "or officers, either *vivâ voce* or in writing or may hear any "accountant." An "accountant" means an admitted member of an incorporated society of accountants.

If the General Commissioners refuse to hear these persons, the applicant may transfer his appeal to the Special Commissioners (who are officials at Somerset House), who *shall* hear them.

(Note the entire omission of surveyor or valuer.)

In the case of *Rex* v. *Offlow General Income Tax Commissioners* ([1911], 27 T. L. R., 353) it was held (quoting from *Dowell's Income Tax Laws*, 8th edition [1919], on page 187) :—

> "On an appeal by the owner or occupier of licensed premises to the General Commissioners against the assessment of his premises under Schedule A, the appellant gave evidence before the Commissioners and his solicitor informed them as to the nature of further evidence he proposed to call, and that he wished to call an expert valuer in support. The Commissioners stated that they already had all the facts before them and did not think any further evidence would assist them, and they declined to hear the expert. A rule '*nisi*' having been obtained, calling upon the Commissioners to show cause why they should not hear and determine the appeal according to law, it was held, discharging the rule, that '*mandamus*' would not lie for the purpose of appealing from the Commissioners' decision as to the non-necessity of hearing the evidence tendered."

In this case a solicitor was pleading and desired to call an expert valuer to give further evidence in addition to the evidence already given by the appellant. The case in no way ousts the giving of evidence by expert valuers in general, but decided that the Commissioners had discretion to refuse to hear further evidence which they considered to be unnecessary or of no assistance.

If a surveyor in private practice desired to appear for the appellant in order to plead or conduct the appeal as distinguished from being called by the appellant or his barrister, solicitor, or accountant, to give evidence, the General Commissioners could refuse to hear him unless he could pray in aid Section 136 (3) of the Income Tax Act, 1918, which says:—

> "If it be shown to the satisfaction of the General Commissioners that owing to absence, sickness, or other reasonable cause, any person has been prevented from appealing in due time or from attending at the hearing of an appeal on the day fixed for that purpose, they may postpone the hearing of his appeal for such reasonable time as they think necessary, or may admit the appeal to be made by any agent, clerk or servant on his behalf."

If the appellant were not present at the appeal the surveyor (in private practice) could state he appeared as agent for the appellant, who had been prevented from attending owing to a reasonable cause. But I am by no means sure whether "agent" means the appellant's general standing agent, or whether it extends to a special agent for the purpose of preparing the appeal; if it does not, such surveyor could not successfully term himself "agent" so as to conduct the appeal. Further, this procedure necessitates the absence of the appellant, and it may be that strong reasons render his presence desirable.

It is obvious that both the General Commissioners and the surveyor of taxes must recognise the propriety of surveyors and valuers representing owners and occupiers in cases of disputed annual value, and it is to be hoped that

the Council of The Surveyors' Institution will consider the desirability of taking steps to urge the amendment of Section 137 by means of the addition of some such words as "or any surveyor or valuer being an admitted member of "The Surveyors' Institution or of The Auctioneers' and "Estate Agents' Institute of the United Kingdom."

This amendment of the law could be enacted in the coming Finance Act. Indeed, it seems a peculiarly appropriate time to press for the amendment because the valuers of the Valuation Office have been assisting the surveyors of taxes, and if the latter are armed with information and advice from such valuers for the conduct of their case on appeal, justice demands that an appellant should be permitted to instruct a surveyor to conduct his case. In cases of importance appellants would continue to instruct counsel and solicitors, and, of course, accountants where their special knowledge is needed. But to the poor man, who wishes to appeal against an annual value of £40, it is burdensome to compel him either to appear in person, however unfitted for the task, or to pay a lawyer to plead in addition to a surveyor to be called to give evidence. The law should permit him to be represented by a surveyor, as is done in objections to rating heard by assessment committees.

Section 137. The surveyor of taxes and assessor may attend every appeal, and may give reasons and any lawful evidence in support of the assessments, and "shall be entitled to be "present during all the time of the hearing and at the "determination of the appeal." But if the General Commissioners request the appellant party to withdraw while they deliberate, the surveyor of taxes and assessor have no right to remain present, inasmuch as the words quoted above do not confer on those officers any more right to remain present than any other party to the appeal. (See *Rex* v. *Brixton Income Tax Commissioners* (*ex parte Lion Brewery Company, Limited* [1913], 29 T. L. R., 712; 6 Tax Cases, 195.)

The General Commissioners may reduce or *increase* the assessment appealed against. They can examine the appellant on oath or affirmation or hear legal evidence produced

or brought by the appellant or surveyor of taxes. But, as previously stated, the General Commissioners have a discretion to refuse to hear evidence which they consider is unnecessary or of no assistance to them. (*Rex* v. *Offlow.*)

Section 138.

If on appeal any dispute arises as to the annual value of lands or hereditaments, "the General Commissioners may "if they consider it necessary, and shall if required by the "appellant, direct the appellant to cause a valuation to be "made by a person of skill named by them . . . and the "annual value shall be determined in accordance with that "valuation."

[This inspection and valuation under Section 138, consequent upon an *appeal*, must not be confused with the inspection and valuation previously mentioned under Section 116 made at the request of the surveyor of taxes or assessor during the rectification of the annual values brought in by the assessor *before* the assessments are signed and allowed by the General Commissioners.]

If the value so found exceeds *the value alleged by the appellant* (this value is probably the value, if any, alleged in the notice of appeal—see my earlier remarks on Section 136; if no value was alleged in the notice of appeal, apparently it must be alleged before the person of skill comes to his determination of annual value) the General Commissioners *may* order him to pay the costs of the valuation, but the Commissioners may use their discretion, and if they are of opinion that the costs have not been incurred through any default of the appellant, they shall issue an order for the payment of the costs by the Commissioners of Inland Revenue.

It is not to be expected that any body of General Commissioners will nominate any valuer in the Valuation Office to make this valuation, because obviously it would be improper to nominate an Inland Revenue official to act practically as arbitrator between the taxpayer and the Crown.

An appellant should carefully consider, before opening his appeal to the General Commissioners, whether at once to require the question of annual value to be determined in

accordance with the valuation of an expert named by the General Commissioners, or to proceed with his case before the Commissioners themselves. He cannot after the Commissioners have determined the appeal, in the hope of getting a more favourable decision, ask the Commissioners to rescind their determination and appoint an expert.

If any questions of law affecting annual value are likely to be involved in the appeal, it would be better seemingly to leave the matter to the Commissioners rather than to introduce the complication of an expert's valuation. Because if the Commissioners are asked after the determination of the appeal to state a case for the High Court on points of law, difficulty might occur in stating the way in which the expert directed himself over the law.

Appeals to the Courts.

Section 149. The determination by the General Commissioners of an appeal is final, save as to questions of law. The appellant or surveyor of taxes, "if dissatisfied with the determination "as being erroneous in point of law may declare his "dissatisfaction to the Commissioners who heard the "appeal," and this declaration must be announced immediately the determination is made. Then within 21 days after the determination he may, by notice in writing to their clerk, require the Commissioners to state and sign a case for the opinion of the High Court and pay a fee of twenty shillings to such clerk. The High Court shall hear and determine any questions of law, and reverse, affirm or amend the determination, or remit the matter to the Commissioners with the opinion of the Court thereon, and may make such order as to costs as to the Court seems fit.

An appeal from the High Court lies to the Court of Appeal and thence to the House of Lords.

In the meantime any tax due must be paid in accordance with the assessment of the Commissioners without waiting for the case to be stated or for the result of the further appeals to the Courts, adjustment of overpaid or underpaid tax being eventually made.

It is therefore important to remember that if an appellant is dissatisfied with the determination of his appeal, he must so state at once, and thereafter has but 21 days within which to consult his solicitor and give notice requiring a case to be stated.

Additional Assessments after the General Re-valuation.

If the surveyor of taxes discover after the signing and allowing of the first assessments that any properties have been omitted from or undercharged in the first assessments, he shall certify the particulars to the General Commissioners, who shall sign and allow an additional first assessment. Section 125.

In practice this means that the surveyor of taxes takes action if he finds that a property has escaped assessment, or discovers ("honestly comes to the conclusion from informa- "tion before him") that the rent or other information in the party's return was wrong or that no proper return was made and the necessary information comes to light after the assessment was signed and allowed.

He can take this action and get the additional assessment signed and allowed "at any time not later than three "years after the expiration of the year of assessment." Until, I think, either 1907 or 1918, the period of three years was only four months.

Thus, in certain circumstances, annual value appearing in the general re-valuation and signed and allowed for assessment for the year ending 5th April, 1924, can be retrospectively amended at any time up to 4th April, 1927. But the surveyor of taxes must in such cases limit himself to the facts and values obtaining in respect of the year ending 5th April, 1924. For instance, he cannot in 1926 make an additional assessment for year 1923-4 because the rent has *since* gone up.

The assessments made for the general re-valuation endure until the next general re-valuation is ordered by Parliament, save as to the correction of these undercharges which are later "discovered."

These additional first assessments are subject to appeal and other proceedings as in the case of the first assessments.

In conclusion may I be allowed to emphasise that assessments to Schedule A are not intended to arrive at values comparable one with another, but at rent-incomes where they exist and at rental values where *bona fide* rack-rents do not exist.

Whereas, in rating, comparable values are of the essence in order to spread the burden in the strict ratio of the annual *values* of properties.

For a thorough grasp of Schedule A *Dowell's Income Tax Laws*, 8th edition (1919), by J. E. Piper, is essential, and it has the added attraction of being the "the bible" of the surveyors of taxes and their senior officers.

I have confined this Paper to the technicalities of re-valuation for Schedule A, and have purposely refrained from dealing with other matters. For that reason I am afraid I have provided very dull reading for those not greatly interested in the subject. I hope, however, it may prove of assistance to members of this Institution, and save them from original research on many points.

AT

THE ORDINARY GENERAL MEETING

Held on Monday, March 12th, 1923,

A DISCUSSION took place on a Paper entitled

THE RE-VALUATION FOR LANDLORD'S PROPERTY TAX—SCHEDULE A,

By C. Gerald Eve (Member of Council).

J. McCLARE CLARK (President) in the Chair.

Mr. C. H. GOTT (Member of Council) thanked The Institution for giving him the opportunity of voicing the members' appreciation of the remarkably able Paper which had just been read. Those of the members who knew Mr. Eve had always recognised and admired his capacity for clear thinking and lucid exposition, and they were grateful to him for bringing his talents to bear upon such a complicated and rather disagreeable subject, and crystallising its main features into the compass of a useful handbook.

In the note at the head of the Paper the members were told that the Income Tax Act of 1918 was a consolidating Act. To some extent he supposed it was, in that it repealed some twelve previous Income Tax Acts and the whole or parts of some thirty-six Finance and Revenue Acts, besides one or two other miscellaneous Acts. But that consolidation had not left the law by any means in a solid state—a good deal of it seemed very liquid, he might almost say gaseous. The provisions of the Act and its schedules were so involved, and in some cases so anomalous, that Mr. Eve had done rather wisely in directing a good deal of attention rather to the practice than to the law. On points on which the law was not explicit they must rely upon established practice, and they must all assume that it was desirable that

established practice on the part of the inspectors of taxes should not be lightly disturbed, even if possibly some other construction might be put upon the law to-day.

They were told that the basis of the new valuation was to be the value as for the year 1922-23. Those words in the Second Schedule of the Finance Act of 1922 might be held literally to imply that the circumstances of that one year should alone be considered, and that if on the one hand a particular tenement, owing to some transient condition, such as an international exhibition in the neighbourhood, should for that year alone command a special rent, or if, on the other hand, say, a public-house whose trade had temporarily dropped owing to unemployment, could not earn a rent at all in that particular year, the annual value should be fixed upon that transient basis, notwithstanding that it would have effect for several years to come. He knew the Paper quoted the decision in *Gundry* v. *Dunham* as to "taking one "year with another," but at the time of that decision he did not think there were any words expressly stating that the value was to be determined as for any particular year. He would like to have the view of the author on that point. Unless one was driven to a literal construction of those words, he took it the measure would be the rent which would be fixed in the year in question upon an annual tenancy which was likely to subsist for, say, some five years to come.

The Paper dealt at some length with the vexed question of rack-rent as governing the assessment, and he was entirely in accord with the views expressed, namely, that when a tenement was in fact let at a rent which was presumably intended both by lessor and lessee to be a rack-rent, and no other consideration passed between the parties either way, that such actual rent, if fixed within the seven years' period, became what might be called "statutory" annual value as distinguished from estimated annual value. To argue otherwise, as some people did, would be to make nonsense of the two alternatives in Rule 1. It would be absurd to enact that, if the rent was what the tenement was worth to let, one was to adopt the rent, and, if it was not, one was to adopt

what it was worth to let. The two things would be both the same, and in either case it would be a question of an estimated rent. The provision must surely mean something. If there was a statutory annual value, as he understood it, it was not to be gone behind even though the estimated true letting value at the time of the assessment might be more or less. The view taken in the Paper on that point was at any rate consistent with the principle of the House of Lords' decision in the *London County Council* v. *The Attorney-General*, where Lord Macnaghten said that "income tax, if "I may be pardoned for saying so, is a tax upon income." There was one point in that connection which ought to be borne in mind, namely, that the Act did not differentiate between a rent fixed within the seven years for an annual tenancy and a rent fixed for a term of years under lease. Both, it would appear to him, were equally statutory annual values.

Mr. Eve had referred to the effect of the Rent Restriction Act upon statutory annual value. He agreed with his views on that, but the question was very much more difficult when applied to estimated annual values. Did the decision in the rating case of *Roberts* v. *Poplar Union* govern procedure under the Income Tax Act? It would be difficult to argue otherwise, because the definition in the Income Tax Acts was even stronger in favour of the decision than it was in rating law. It had to be found what the premises were worth to be let, and it would be difficult to argue that that was governed by what the landlord could demand and recover. At the same time it seemed to him that on the general principle that income tax was a tax on income, there would be some justification for limiting the assessment to what the landlord could in fact obtain from the premises. There, again, however, it had to be remembered that the effect of the assessment was not limited to the immediate years in which rents were restricted.

In dealing with the deductions from annual value for the purpose of collection, no reference was made to the provision for relief in cases where the expenses of repairs and maintenance on a five years' average exceeded the statutory per-

centages quoted in the Paper. That relief, which was limited in its application in the Act of 1918, was, by the Finance Act of 1922, extended to "any land (inclusive of farm "houses and other buildings, if any), or house, the assess- "ment on which is reduced for the purpose of collection." He had heard some discussion as to whether the effect of that extension was to grant relief to every class of property; but he supposed he was right in assuming that the words "land" and "buildings" were used in a restricted sense—farm land and buildings *ejusdem generis* with farm buildings —and that the relief was not therefore extended to mills, warehouses, and every other possible class of property.

He would have been glad if space could have been found in the Paper for the author's views on the difficult subject of premises containing machinery and plant. That was a very live subject in Yorkshire, where at the present time several unions were undergoing re-assessment for rates. A good deal of criticism was levelled in Yorkshire now and again at the practice of rating surveyors in first fixing the rateable value, and then adding an arbitrary sum or percentage to that rateable value to arrive at the gross. Quite customarily the rateable value was doubled, and nobody was very much the worse for it, he believed.

He did not think the criticism against the method was sound, because if surveyors were advising upon the fixing of a rent where they had no other standard of comparison, he took it they should find out what net return the property should yield, and fix such a rent as would allow them to recover that, plus what it would cost for outgoings, even though, to arrive at the rateable value, they deducted the same sum as they had added. People were getting a little concerned in Yorkshire, however, in wondering whether in swallowing a gross of 100 per cent. above rateable they had prejudiced themselves in regard to income tax, where the deduction between gross and net was only one-sixth. It seemed to him that just as in the case of the rating assess- ments to which he had referred, if one fixed the gross upon the assumption that a certain sum would be necessary on out- goings to maintain a certain net revenue—were it 100 per cent.

or whatever it might be—that it was equally justifiable to fix gross Schedule A by asking oneself how much rent would one put on if one assumed that one was going to spend only one-fifth of the net in outgoings. If that view were adopted, it would follow that the gross values for the two assessments might be substantially different, while the net, assuming correct valuation in each case, would be approximately alike.

There was one part of Mr. Eve's Paper on page 178 which, if the author would forgive him saying so, had caused him a little disappointment. Mr. Eve advised surveyors implicitly, if not explicitly, to refuse facilities for inspection by the public officers, whoever they might be, charged with the duty of making the assessments. He (the speaker) had never in all his professional career been able, for the life of him, to see the advantage of that point of view. If a public official had a duty to perform, why should surveyors want to put any impediments in the way of his performing it creditably? Let it be assumed, as was in fact the case, that such an officer had no statutory right to insist upon entry. Still, why should surveyors not then respond to a courteous request, even if it should be made by an inspector of taxes or even by a Valuation Office official? To put it on its lowest ground, what good did they do to themselves or their clients? The obvious result, he supposed, would be that the assessor would put the property high enough and leave it to the man to show that it should be reduced, with the ultimate result possibly that the man would have to submit to inspection by a so-called "person of skill," who might be anybody from the occupant of The Institution's Presidential Chair to a man who called himself a licensed appraiser.

He was entirely in agreement with the author on one point, namely, that the time had come for the amendment of the law so as to permit surveyors to conduct appeals before the General Commissioners, although there, he thought, Mr. Eve had made rather a false point in basing the suggestion on the fact that the inspectors this year had the advice of the officers of the Valuation Office. Both sides were alike as the law at present stood. Each one could be advised by a valuer, but neither of them could be re-

presented by one. He joined in the hope which had been expressed that the Council would take up the matter if it were found to be practicable.

There was just one thing more he must say before he sat down. As the members knew, he had the honour of occupying an official position under the Board of Inland Revenue. Whatever views he had expressed in commenting upon the Paper must, of course, be taken as his own personal views as a member of The Institution addressing his fellows, and not as by any means *ex cathedra*. He was quite prepared to learn that his views were entirely unsound. There was one view, however, on which he would not be challenged, and that was that the members were very greatly indebted to Mr. Eve for his research in preparing the Paper. He desired to congratulate him upon having presented what he himself had said was a somewhat dreary subject in an attractive form, and it was no mere formality when he moved, as he did, that the members' best thanks be tendered to Mr. Eve for his able Paper.

Mr. H. A. Glover (Fellow) said Mr. Eve's Paper would form a valuable text-book for members of The Institution.

With regard to the question of the re-valuation of the country, the members of the metropolis were rather glad that the time had come for that to be done. They themselves had been assessed at the peak of the boom in 1920, and they were kept very closely up to the mark by the inspectors of taxes exercising their powers to take only the gross assessment of the municipal authorities and make their own rateable assessment. If there was any increase in value during the year, he thought their clients generally had found out that they had a higher rateable value than they had in the previous year. A short time ago a letter had appeared in the *Times* from the Ratepayers' Defence League in which the statement was made that that League knew as a fact with regard to houses subject to the Rent Restriction Act (where 40 per cent. could be put on to the standard rent) in some cases the landlords, not having increased standard rents, would be prejudiced, because their

assessments would be put up 40 per cent. in just the same way as if they had obtained that 40 per cent. He had a friend in the Inland Revenue with whom he had been discussing that point, and his friend assured him that that was entirely wrong. The rent actually obtained was the rent at which a man would be assessed in the case of lettings. In the case of an occupying owner the question of annual value came in.

He had personally been under a wrong impression if what Mr. Gott had said about the quinquennial average was right. He (the speaker) had thought that the quinquennial average for repairs applied to all properties. Perhaps Mr. Eve would not mind touching on that point later.

There was only one other small point which occurred to him, and that was that limited liability companies who owned property had to pay corporation tax of a shilling in the pound on the Schedule A assessment. Consequently property-owning companies were intensely interested in the question of the re-valuation. A company to whom he happened to be surveyor, after a very prolonged fight with the inspector of taxes, got the inspector to admit that mortgage interest was a permissible deduction. The inspector had only just admitted that, although the question had been fought ever since the corporation tax first became operative.

There was nothing else which occurred to him to remark upon. Personally he thought the Paper was beyond criticism, and he had very much pleasure in seconding the vote of thanks.

Mr. Arthur Vernon (Past-President) thought the Paper was a very happy and valuable forecast of shortly coming events. The members were indebted to the author for telling them about that explosive volcano-like eruption on the question of income tax, Schedule A, which was likely to affect all surveyors and their clients. The members knew that Mr. Eve came from the very centre of the conspirators who had sandwiched their proposals into the last harmless

looking Finance Act. Having left those conspirators, he hoped Mr. Eve had also left any wiles they might have taught him in earlier days.

He was interested in the subject in many ways. He happened to be an old Commissioner in two large districts, and the inspector of taxes, in his poverty of knowledge, had called them together and said, "What are we to do about "the incidence of this new assessment for property tax "under the Act?" Their first remark to him had been, "Surely you have your instructions. Why do you ask us? "We may have to sit as magistrates or judges to decide? "Why do you ask us to settle the verdict before we have "heard the evidence? What are you going to do?" He himself had been discussing with some of the collectors what they were going to do about the administration of such a difficult Act. There was only one thing to do, namely, ascertain the value of each property and put it boldly at that. But the value of each property must be ascertained. He was sure everyone in the room would admit that if assessments were raised to the ordinary and full and proper rack values, the rates in many parts of the country would be reduced to comparatively harmless and innocuous amounts. They had told him, "First of all we are "going to take the *Hudibras* definition, namely, 'The real "'worth of anything is just the price that it will bring.' "If we find that rents are apparently fair we do not pro- "pose to alter them." That applied to the great majority, although the members knew that rents differed very materially compared with their market values. Then he had asked, "But what are you going to do with all those "which are occupied by their owners." The reply had been, "What we are going to do there is to start with 40 per "cent. increase on the ordinary gross value as assessed to "the poor rate." That might not be very serious in the case of £15 or £16 houses, but when one came to a £50 or £60 house 40 per cent. would be a big jump, and when one came to a £300 or £400 house it would be monstrous. They had determined that the percentage must rapidly diminish in proportion to the extent and amount of the rate-

able value, so that they had now come to the conclusion that it would have to be a diminishing ratio according to the values of the properties. But yesterday he had found that they had also come to the conclusion that 40 per cent., which had been suggested to them from the highest quarters, was not a figure which they ought to bring before the Commissioners and ask them to approve, because in many cases it would be too large.

He happened to have been chairman of a county rating committee for twenty years. They had had the greatest trouble in his county in settling how they were to fix the county rate. They had fourteen unions. They were all assessed at different values, for the great struggle of the assessment committees had been in each parish to keep down the total in the hope that that would lessen their county rate. Some of them had succeeded, but they had all a long scale of deductions, differing in every case, and it passed the wisdom of Solomon to know how to apply even a county rate of 4*s.* in the £ at anything like equality among the fourteen different unions. After thinking it over, they found an Act which allowed them to charge it upon the property tax, and they passed it upon that. But after they had taken property tax for all ordinary properties, and taken what was not included in property tax—all companies, canals, and things of that kind, under the rateable —they found that they would be about 15 per cent. higher than the total poor rate assessment of the whole county. Therefore he had said, "That is simple. Take off 15 per "cent. They will all pay equally." It was taken off. They had had four appeals in twenty years, and those had been withdrawn with apologies.

What was going to happen in the present circumstances was that there would be an outburst of appeals throughout the kingdom. If any of the members present were Commissioners—as he himself unfortunately was, probably more from age than merit—he thought they would be well advised to withdraw as soon as they could before they had weeks and weeks of arduous trouble in trying to settle what was the real value of the many properties. At the same

time they must all admit that the general assessments of the whole country were not what they ought to be. There ought to be one assessment for all purposes. There was only one real value for every property whether rateable or saleable, and it was their duty as surveyors to try to find it out, and if they could only find it out, it ought to be applied for all purposes. A commission had sat twenty years ago and had published three or four big blue books, but they had not been able to obtain any resulting legislation, and there it was left simply as a record of industry with no practical merit. Now the new valuation was coming into operation, and it would be the duty of all surveyors to take care to see that it was applied fairly and that a fair value was entered. Then he did not think anybody could be blamed, because if all suffered alike there would not be much harm done.

Mr. William Allen, Barrister-at-Law (Visitor), sincerely congratulated Mr. Eve on the very clear exposition of Schedule A which he had given that evening. He thought Mr. Eve had been wise to leave out the thorny question of the values in London, complicated as it was by the Metropolis Valuation Act and the Rent Acts. That would make a Paper by itself. But in regard to the rest of the country Mr. Eve had put before the members a singularly clear exposition of the Income Tax Acts. That was by no means an easy thing to do, for he very much doubted if the ingenuity of man could have devised a more complicated system of taxation with which to worry the individual.

Mr. Eve had dealt with one point about which he (the speaker) was not quite clear whether he accurately gathered Mr. Eve's meaning; that was the proviso to Section 32 (3) of the Finance Act, 1922, which provided that "Where any "person proves to the satisfaction of the General Commis- "sioners that the annual value for the year 1923-24 of any "land, tenement or hereditament or any inhabited dwelling- "house, in respect of which he has been assessed for the year "1923-24, is less than the annual value on which the assess- "ment was based, he shall be entitled to a reduction." If

he understood Mr. Eve aright, he had found some difficulty in construing that proviso because he appeared to think (and he might be right) that it permitted an appeal to the General Commissioners against a valuation on Schedule A if that valuation turned out to be actually greater than the rental received for the year 1923-24; but he (the speaker) thought it was quite possible there might be another explanation. Under Section 34 of the Income Tax Act, 1918, there was permission given to the taxpayer in certain circumstances, when he had made a loss, say on farming operations or on some matter of that kind, to apply to the General Commissioners for a repayment of the tax which he had already paid; and he thought that probably the proviso under the section of the 1922 Act only gave the taxpayer a right to go to the General Commissioners and say, not by way of appeal but by way of application, "My assessment is "higher than the actual amount that I have been paid, "and so I ought to be repaid the over-excess, or be allowed "the over-excess." If that was the case it would then be possible for the taxpayer at any time during the year of assessment to go to the General Commissioners and ask for a repayment of tax paid on a reduction of the assessment, not by way of appeal but by way of application. If that was the case, the Commissioners' decision would be final, and there would be no appeal to the Court as there was no appeal on an application as distinguished from an appeal.

He thought there was one other point which might be noted. The Act, as he understood it, provided that the assessments were to be made in the year 1923-24. That meant, he took it, the income tax year 1923-24—from 5th April, 1923, to 5th April, 1924. He did not know what the experience of gentlemen in the room was, but he had already seen some assessments which purported to be made under the valuation, and people who had received them, not knowing of the 21 days which were allowed for appeal, had let the time go by; but he thought it would be safe to advise anyone who received such an assessment before the 5th April, 1923, that the time did not bind him, and that

he was entitled to have a new assessment served in the year of assessment, 1923-24.

Mr. Vernon had said he thought that in the case of an occupying owner the assessment was, in many cases, being put up 40 per cent. In all the assessments which he (the speaker) had seen—and he had seen a certain number of them—that was exactly the percentage which the occupying owner had been put up. He ventured to say that making assessments on any rule-of-thumb method like that must be incorrect. Each one should be fairly valued on its own basis, and no general average rise in value taken. He could quite imagine that at the present time an occupying owner of a large house in the country, with costly grounds to keep up, would actually get considerably less for it than he could have done when the last valuation was made, and he (the speaker) could not see any reason why a rule-of-thumb value of 40 per cent. should be taken in every case. Every case, he took it, when it came before the General Commissioners would be judged on its merits.

He quite agreed with what Mr. Eve had said on one point, and that was that in many cases it would be most desirable that a surveyor should be allowed to appear for the owner in cases where there was an appeal on fact. It seemed to him that having to call in a surveyor as a witness, and to appear by someone else, was in many cases only needlessly increasing the cost to people who at present could very ill afford it.

He had learned a great deal from the Paper, and he thanked The Institution very much indeed for having given him the opportunity of hearing it.

Mr. A. B. Thornton (Fellow) said as a former colleague of Mr. Eve he was glad of the opportunity of supporting the vote of thanks. In the department which Mr. Eve had now forsaken they had always known him to be a clever man, and they were glad to think that, now he had shaken off the shackles of Government employment, the outside public were also beginning to realise the same fact.

There were no points on the technical side of the Paper

with which he wished to deal, but there were a few general observations which he would like to make upon the practical method of dealing with the valuations when in due course the notices were issued. Before coming to that, however, there was one fact which he had learned that day from an inspector of taxes which might be of general interest to the members of The Institution. He was told by the inspector—and he presumed the inspector was accurate—that notices of assessment when issued would be sent only to the occupiers. It seemed to him (the speaker) that the owners were also interested, and if surveyors were acting for the owners they might request the occupier to let them have early information of any re-assessments, so that they could make any objection which they desired on the owner's behalf. It seemed to him rather an omission on the part of the authorities that they did not serve notices on the owners at the same time as the occupiers.

Passing on to what would happen when all the notices of re-assessment went out, there seemed to be a feeling on the part of many people—voiced by Lord Decies of the Income Taxpayers' Association—that there was going to be a vast number of appeals, an opinion which was shared by Mr. Vernon. Lord Decies, writing to the *Times* on the 22nd February last, stated he thought there would be such a vast number of appeals as would cause the whole system to break down. It would be a sorry affair if this happened. Personally he was not quite so pessimistic. His belief was that at least 75 per cent. of the new assessments would be settled over the table between the taxpayers and the surveyors acting on their behalf on the one side, and the officials of the Inland Revenue acting on the other. He believed they would be able to short-circuit a very large proportion of those appeals before they ever got to the General Commissioners, and he based that belief somewhat on his experience as a district valuer during the last thirteen years. During that time he had been responsible for the settlement of something like 100,000 valuations, and he had had only 20 contests, an average of one in 5,000. The same happy result might not, of course, be obtained

when such very contentious matters as assessments came to be dealt with in large numbers, but he did believe that the prestige of the members of The Institution, who formed the Valuation Office, and the confidence which they had now established with members outside the department, would enable them to deal satisfactorily with a tremendous number of those re-assessments. They could only be dealt with satisfactorily in most cases between surveyor and surveyor. He was quite confident with regard to a large number with which he would no doubt have to deal that he would be able to settle them with the surveyor representing the taxpayer over the table, and that the General Commissioners would not be troubled. It was incumbent upon all the members of The Institution to do what they could to make the valuation go through successfully.

It had been questioned in public whether this was a good time to re-value. The last re-valuation had been made in 1910-11, and his own experience—and he felt sure it was the experience of every other surveyor in the room who had looked into the matter—was that it was high time a re-assessment was made. Even in the present quinquenial they would not get everything as it ought to be. There was gross inequality at the present time. He used those words advisedly. Anything they could do to start the process of levelling up would be only a fair measure of justice between taxpayer and taxpayer. That was what was wanted, and he hoped that the quinquennial, when it was through, would be shortly followed by another and better re-valuation after the new Government Rating Bill, which had been spoken of recently, had been passed. He hoped that they would then have the one common assessment outside the metropolis as they had it inside the metropolis to-day: such a measure would be an immense advantage to everybody. His own belief was that while they could not get everything right in the assessment now under review, they could do a great deal.

With regard to the amounts by which some properties would be raised, he was quite sure they would not all be a level 40 per cent. He knew of assessments which would be

doubled and even trebled, and he thought in some cases rightly so. He supposed the outcry, when it came, would come largely from those people who had been for the last ten years sitting on ridiculous assessments. If the matter, however, was dealt with in the same way as valuations in the past had been, he was quite sure the present re-valuation would go through without any breakdown, and without throwing any undue burden on the Commissioners, who were no doubt busy men. He also hoped it would bring grist to the mill of the surveyor in private practice.

Lieut.-Colonel J. Grimwood, D.S.O. (Visitor), said he desired to congratulate the author on his Paper. He was an old friend of Mr. Eve's firm, and of the late senior partner, Mr. Howard Martin. He was also something of an old friend of The Institution, being its examiner in Book-keeping; he was by profession an incorporated accountant. Members would, therefore, appreciate that his feelings that evening were friendly.

Mr. Eve had not explained to the meeting the small part which he had possibly played in the evolution of Mr. Eve's very able Paper. What had happened was as follows: As he was reading the Finance Act, 1918, through for the thousand and first time, he came across Section 137, which said that "barristers, solicitors, and accountants" might appear on behalf of applicants before the Commissioners, it being further explained that an accountant was deemed to be an accountant belonging to an incorporated society. He did not know who wrote Acts of Parliament with all their old-world phraseology, but he would call this important personage "him." Sometimes it was a good "him," sometimes a bad "him," but when he read that section about accountants, he said at once, "Oh, "this is a very good 'him' indeed"! for incorporated accountants, as a rule, dragged out a meagre existence in the kitchen, but in this Act of Parliament they had joined the august circles of barristers and solicitors in the drawing-room.

Now, as Mr. Eve pointed out, there was another section

of the Act by which applicants before the Commissioners (when they were sick) could be represented by "agents, "clerks, or servants." It was clear, therefore, that if a chartered surveyor had to appear before the Commissioners he had to do so under this last section as an "agent, clerk, "or servant," the "kitchen" section, whilst the speaker, though a mere incorporated accountant, would for once plead in the "drawing-room" section.

He immediately rang up Mr. Eve's firm and asked, "If "any of your clients desire to be represented before the "Income Tax Commissioners we shall be very pleased as in-"corporated accountants to appear on their behalf." There were sounds of grievous displeasure at the other end of the telephone, and some sort of emphatic statement such as "Chartered surveyors are quite capable of themselves "appearing, and of course they can do so." But he persisted, "No, surely you have got hold of the wrong "Act. This Act says nothing about chartered surveyors. "It says barristers, solicitors and accountants, and if you "yourselves wish to appear in person, you will have to "plead as an 'agent, clerk, or servant,'—and surely you "would not like to do that!" It was then time to hang up the receiver, and to give instructions that if Mr. Eve or any one of the partners were to call during that afternoon and were observed to be holding a big stick in their hands, he (the speaker) was "engaged" for the rest of the day.

He might, therefore, with great humility claim that he had something to do with certain paragraphs in the Paper under discussion.

Mr. Eve, in proposing that in the Finance Act, 1923, it should be made clear that chartered surveyors might appear before the Commissioners, had with real good nature said that of course "in cases of importance applicants could "continue to instruct counsel and solicitors and, of course, "accountants when their special knowledge was needed." Of course! Of course!! Accountants' special knowledge was always needed. Was it not the special job of every professional accountant to juggle with figures—to make noughts into nines—and nines into noughts? That was not

a matter which concerned chartered surveyors: even Mr. Eve had had to own up that evening to an arithmetical inaccuracy in his Paper. He (the speaker) would suggest that the words which should make clear in the Finance Act of 1923 that chartered surveyors might appear should be: "In cases of extreme importance applicants might, of course, "be permitted to instruct chartered surveyors when their "very exceptional and special knowledge might specially "be required."

There was another point which seemed of special interest. Mr. Eve had touched upon Schedule B, and had said that farm profits were based, by law, upon the annual rental value, inclusive of tithes, and that it was probably the better measure of profit. The speaker did not think that rent and profit had any near real relation at all. How the "hims" many years ago came to think of Schedule B based upon annual rental value was in this wise: The farmers did not keep accounts, and when during the war they began to make profits, the "hims" wanted to know how much profit they were making, they doubled and trebled the assessable value under Schedule B, thinking that by so overtaxing the farmer they would turn him into an expert book-keeper and that all farmers would appear with beautiful accounts to pay tax under Schedule D instead of Schedule B. Now the Inland Revenue supplied a form to the farmer drawn up upon lines which indicated the kind of accounts the "hims" thought the farmer might keep. That form contained, first, spaces for the most detailed particulars of the acreage and rent of the farm, and four foot-notes. It gave such a kind warning, too, that if private profits from, say, horse dealing, had already been included under Schedule D they should not appear also on that form for assessment. Then followed an abstract in which the farmer had to declare the value of the tillages, &c., as actually valued by . . . at the beginning and end of the year.

The speaker suspected that the blank had been made by the good "him" and was to be filled in with the name of a chartered surveyor.

Then followed an account—seven columns on one side and

seven columns on the other side—and in the first column on each side were enumerated the names of nearly every animal which went into the Ark and of nearly every kind of crop that grew north of the Tropic of Capricorn. It included also hides, and the good "hims" had left a place for "Valuers', Auditors' and Accountants' Fees." He was, however, inclined to think that the order should rather have been "Auditors', Accountants' and Valuers' Fees," but that was a minor matter so long as there was left a line for each.

Then followed an abstract of what the family of the farmer had eaten off the farm. The farmer was prompted to forget nothing of what he and his might have consumed: eggs and milk must not be forgotten nor even the wood he had burnt on his fire, so that the value might be added to his income. Then followed Abstract C, which contained a detailed list of every kind of farm implement, from horse rakes to steam engines, the value at the beginning and end of the year. All this, *mirabile dictu*, from a farmer! To fill such a form up required the genius of a chartered surveyor, and, of course, the ordinary ability of an incorporated accountant; and quite candidly, the more complicated those forms, the better the speaker, with his eye upon the flesh-pots of Egypt, liked them.

There had been a Committee nominated by the Inland Revenue to inquire into the simplification of income tax returns, and he would be interested to see what that Committee would have to say to that particular form of return.

Considering the prosperity of the British farmer to-day, was it not the time when The Institution of Chartered Surveyors' might join hands with the Society of Incorporated Accountants to introduce a Bill into Parliament compelling the farmer to keep accounts upon the lines indicated which would require of course the assistance of their united services? If their united efforts did not actually finish the farmer, it would undoubtedly be true, as the late Minister of Agriculture said at the last banquet of The Institution, that "the Ministry of Agriculture had been made a first-"class department because farming was in future going to "be a first-class industry."

It was indeed a merry game and a happy land was England, and he trusted that Finance Acts, and Schedules A, B, C, D, and E, might long continue to be written up and down by the good "hims" who brought such things into existence.

Mr. Michael Faraday (Visitor) said it was a great pleasure to him to be on his feet for the first time in The Surveyors' Institution addressing the members of The Institution, and not merely being present in The Institution as an expert in some arbitration.

The Paper was full of excellent points, but as the President had, quite rightly, limited the time of speeches, he was going to deal with only two. He had come to the conclusion, after the speech to which the members had just listened, that he must be either an agent or a servant or a clerk, and not a surveyor, because for years he had been appearing before the Commissioners and the General Commissioners and the Special Commissioners in tax cases without the slightest objection on their part. He had not heard it referred to, but the 1880 Income Tax Act, Section 57, provided that "no barrister, solicitor or attorney, or "any person practising the law, shall be allowed to plead "before the said Commissioners on such appeal for the "appellant or officers either *viva voce* or in writing." In that Act there was no mention of a surveyor, but there was mention of the fact that no legal gentleman of any description was allowed to plead. In a subsequent Act of 1898 that provision was repealed, and learned gentlemen were allowed to go before the Commissioners of Taxes; but here again there was no mention of surveyors, and in the 1918 Act there was merely the re-enactment of the 1898 Act by which a barrister or a solicitor—and now an accountant—was allowed to appear. There, again, no mention of a surveyor was made, because from time immemorial surveyors have appeared before Commissions. Schedule A tax was, as had been stated, an income tax where there was the actual rent; but in cases where there were no actual rents the Government employed valuers to assess that rent, and

the appellant or taxpayer was equally entitled to employ a valuer for that purpose. In the event of disputes between the two sides, the Commissioners "must appoint a person of "skill"—(no reference to a lawyer there)—"and this person "of skill shall make a valuation which shall be adopted "by the Commissioners." Could there be anything more absurd than the condition that the Commissioners were bound to adopt a valuer's report, and yet the valuer was not to be before them to argue *viva voce* the reasons of his report? It seemed to him that the Commissioners would prefer to hear a valuer and decide upon what he said rather than to have a valuer to decide for them. His own view was that there was nothing in any Act which prevented a surveyor going before the Commissioners; and, as he had said before, he had never heard a Commissioner refuse to hear a surveyor. Mr. Eve suggested that The Institution should at once invoke Parliament to permit surveyors to attend before Commissioners. Supposing even with the enormous number of legal friends they had in Parliament such permission were refused? Where were they as a body? At the present moment he ventured to suggest that when a surveyor of taxes applied to a surveyor—as they had applied to him and to a great many firms represented in the room that night—to go and agree figures before they were published, that that surveyor of taxes was not going to object, if they could not agree, to surveyors going before the Commissioners. Even if he did object, the Commissioners might say that there was a "reasonable cause." The section said: "The General Commissioners might, owing to absence, "sickness, or *reasonable cause*" hear somebody else, and "reasonable cause" might be interpreted to mean the inability of the taxpayer to plead his own cause. He could not imagine the Commissioners refusing to hear a valuer when the Government were, on their side, producing a valuer to justify his assessment. Therefore, in his opinion, Mr. Eve was unnecessarily alarmed. He personally would never believe that any Commissioner would refuse to hear surveyors on questions of value. They had never done so yet, except in an isolated case, for which there was a reason-

and which Mr. Eve would discover if he read the case. Therefore he did beg The Institution to let sleeping dogs lie, and to let the conditions which now existed prevail.

Questions were going to arise on re-assessment which were extremely difficult. There was the question of descending values. Mr. Eve had not referred to one of the largest classes of property in this country which had to be dealt with—he referred to public-houses. There was a trade in which the brewer admittedly, by reason of the Act of Parliament, was making large profits; but by reason of the fact that the brewer had to hand the taxes on to the consumer, there was not the slightest doubt that the tenant publican was to-day working under very adverse conditions. If the rent was to be a free rent which the tenant publican would pay, he found and he knew that there was a descending scale, which was made worse by the Bill which had passed its Second Reading only last Friday, because the consumers of drink were again going to be reduced. If the 1923 valuations were to be based upon the 1922 values—these were on a descending scale, and a hardship was going to occur in those cases; he was convinced, however, that surveyors and valuers for the Government would meet surveyors and valuers for the licensed property-owners, and both sides would attempt to agree upon a figure which should be more or less permanent, taking one year with another, for the next five years.

He felt that his allotted time for speaking had come to an end. There were many points in the Paper which he would have liked to have remarked upon. He did not know whether it was possible, but he hoped that Mr. Eve might extend the Paper one evening and give the members and others another opportunity of attending again and putting a number of points. There was the question of factories; there was the question of machinery in factories; there was the fact that under Schedule D one was able to deduct, in making a return, whatever was paid under Schedule A, which was all very well when profits were being made in factories; but when losses were being made Schedule A was a very important assessment. There was the question of deductions from gross values.

Mr. Eve had stated that under the Rent Restriction Act one landlord had increased the rent to £70, whilst another had allowed it to remain at £50 for a like property. For Schedule A he had only to pay on the £50 or the £70 as the case might be. Yet for the county rate Mr. Vernon took both values, although they were properties side by side and of identically the same value.

There was the further point which seemed to be so germane to the question, namely, that the Rent Restriction Act permitted an increase of 40 per cent. largely because of the enormous cost of repairs; 25 per cent. of that referred to repairs, and 15 per cent. to profit. Yet in the new Schedule A they were not allowed to deduct the full cost of repairs with regard to those profits. The authorities took the 40 per cent. and put on the gross, and then they took a lesser sum than it actually cost to keep those properties in a state of repair. That, to him, was an injustice which ought to be remedied.

Mr. J. H. Salmon (Fellow) said the first point he would like to make was in regard to Mr. Eve's example on page 174, in which Mr. Eve had said there was an arithmetical error. Personally he thought the sentence which read "In all cases the tithe and rents are to be taken at the "amount paid in the year preceding the year of assessment" also wanted some slight modification, because the tithe should be the tithe in the current year—the year 1922-23. Then, with regard to the example of the assessment of tithe rent-charge on page 176, Mr. Eve said: "The deduc- "tions are to be the amounts actually paid in the year "1922-23." Law and practice also required, he thought, some slight modification of that. The members would see the examples of deductions which Mr. Eve quoted. The first one in which he would suggest that a modification was necessary was in regard to the rates. The deduction should not be, necessarily, the amount for the year 1922-23; it was alternative with the amount for the year 1921-22, whichever happened to be the higher. Similarly for chancel repairs and tenths, he believed the year was the preceding year—1921-22.

Mr. Faraday had referred to the question of the power of the General Commissioners to refuse to hear a surveyor in private practice. He was told that Mr. Faraday's experience was the general one, and that only one General Commissioner in a thousand would be likely to take up the position of refusing to hear such a surveyor. He thought, therefore, that Mr. Eve's fear of refusal was not entirely well founded.

With regard to the case of *Kerr* v. *Bride*, Mr. Eve had argued that if the landlord failed to give the necessary notice to quit, and merely by notice raised the rent, in effect the Rent Restriction Act increase could not be taxed. He was certainly not going to attempt to take a legal point with Mr. Eve, but he would rather like to raise for Mr. Eve's consideration the question whether the governing factor should be the legal right to collect the rent. If the matter were placed in the legal mill it might emerge in a form which would show that the governing factor was not the legal right to collect the rent, but the rents actually paid in the end as the result of agreement between the landlord and the tenant.

Lastly, there was the point with regard to Section 32 (3) of the Finance Act of 1922, with which Mr. Allen had dealt: "Any person who proves . . . that the annual "value for the year 1923-24 . . . is less than the annual "value on which the assessment was based shall be entitled "to a reduction of his assessment." Mr. Eve suggested that the difficulty was in the proof of a fall in annual value, and particularly so owing to the fact that notice of appeal had to be given within twenty-one days after the date of the notice of the new assessment in April, 1923; and he pointed out that in certain cases the appellant would have only thirty-one days' experience of the annual value for the year 1923-24. Mr. Eve felt that the law should be amended accordingly. There were several references to the same point on the following pages. Mr. Allen had suggested that the probable way out of the difficulty was a claim for repayment.

Mr. Allen having spoken, he himself felt very diffident

in making an alternative suggestion for Mr. Eve's consideration, but he would like to suggest that, in his comments upon the notice of assessment, Mr. Eve was regarding as one thing what really were two distinct things. There were, in the first place, the determination of the annual value and the notice of the annual value, of which the notice had to be given about April, 1923. Secondly, there were the determination of the assessment and the notice of assessment, which had to be given in the autumn of 1923, when the lists were deposited and notice was given regarding appeals. These appeals would probably be heard between October and December of 1923, when proof could be given of a fall in annual value. That information was very much wrapped up, but it was to be found in the Second Schedule of the Finance Act, 1922. It was dealt with in the schedule by way of reference, and therefore it was an extraordinarily difficult matter to dig it out.

Mr. Eve had said his Paper was dull, but personally he had never known a dull Paper—if it were a dull Paper—delivered in a brighter or more interesting manner.

The vote of thanks was then put, and carried with acclamation.

Mr. C. Gerald Eve, in reply, said he was much obliged to the proposer and seconder of the vote of thanks and to the members for the way in which they had received it. He could only say that having written the Paper he had come to know more about the subject, although it would be false modesty to suggest that he had not pretended to know something about it for a good many years. Schedule A had been rather a hobby of his.

He regretted that through a clerical error certain wrong figures had crept into the third example in his Paper set out on p. 174. It should read as follows:—

> Another Farm.—Owner is occupier; house is a farmhouse; six cottages on the farm worth £30; fair rental value £350 if landlord paid tithe of £25; land tax is redeemed.

Schedule A, Gross (£350 less £25 tithe)		...	£325
Deductions :—			
Repairs, &c., 1-8th of £320	... £40		
„ „ 1-4th of 30	... 8		
			48
£350			
Net Schedule A		...	£277

There was no time to reply to the various points which had been put to him, but there was one or two with which he would like to deal. There was the main point which Mr. Faraday had made of the increase of rent by 40 per cent. under the Rent Restrictions Act, of which 25 per cent. was for increased cost of repairs. There had been at least a previous 10 per cent. for repairs always in the old rent. In effect that made a considerable allowance for repairs. Mr. Faraday said, " Contrast that with the miserable 1-6th, " or 1-5th or 1-4th which was allowed between the gross " and net Schedule A." The answer was that the 1-4th and 1-5th and 1-6th were amounts allowed on account, because by a maintenance claim if they spent more they could get it all back. By the maintenance claim he meant the claim in the average of five years, claimable every year. One said, " This is the average of what I have spent in " repairs in the last five years. It is more than the " miserable 1-4th, 1-5th and 1-6th, and I want it all " back." That was a maintenance claim, which question he had carefully kept out of his Paper, but it did form a complete answer to the insufficiency of the allowance. One got more later if one spent it : but that applied only to houses and farms and farmhouses and buildings.

He was not going to be so foolish as to attempt to debate law with a learned counsel, especially with one who had cross-examined him so many times and whom he had found to be more learned than most learned counsel; but Mr. Allen had suggested that instead of having to give notice of appeal within 21 days, in order to have a platform from which to prove that the value of the later year was less than the

value which the authorities had set down, one should go to Section 34 of the Income Tax Act of 1918. He had personally looked at that previously. It referred only to anything under Schedule D. It referred to trade, profession, employment, vocation, and woodlands assessed under Schedule D. Then if one did not like certain things one could get allowances or abatements or generally be treated in a gentlemanly way without much formality, but even then notice in writing had to be given to the surveyor of taxes within six months. He suggested to Mr. Allen for his consideration—in return for Mr. Allen's suggestion for his consideration—that that referred only to Schedule D. No doubt he was wrong, but that was the way in which he read it.

Mr. Thornton had said the surveyor of taxes had informed him that notices of assessments would be served only upon occupiers. Under the Act it simply said that the notices would be put on or near the church door, or, if they liked, the Commissioners could serve notices on "each person assessed." The persons legally assessable were the occupiers, so he did not think anyone could grumble if the owners did not get a notice. But it was to be noted that when the Government surveyors of taxes wanted a return made to them as to what was the rent, and what was this and that, they sent it to the occupiers *and* to the owners. The Act said only an occupier should be made to fill it up. Therefore if the surveyors of taxes sent what might be called a courtesy form of return to the owner asking him to fill it up, he thought, out of courtesy, if the owner did fill it up, they ought to send him a notice of the assessment. No owner, unless he was also the occupier, was liable to fill up any form of return for Schedule A.

The meeting then terminated.

AT

THE ORDINARY GENERAL MEETING

Held on Monday, April 9th, 1923,

A DISCUSSION took place on

THE REPORT OF THE RENT RESTRICTIONS ACT COMMITTEE.

J. McCLARE CLARK (President) in the Chair.

Mr. C. GERALD EVE (Member of Council), in opening the discussion, said he thought that every citizen owed a great debt of gratitude to the Departmental Committee which had sat on the Rent Restrictions Act. He had had the pleasure of spending two days as witness before that Committee, and he had formed the opinion that it was an exceptionally able, strong, and painstaking body. The Committee had made a thorough investigation of the subject, and he thought it might be said that its Report, taking it as a whole and within a broad view, was an excellent and proper one. After all, what the Committee had to recommend was, What should the Government do? It was not solely a question of what was the best thing to do, but what was politically expedient.

To his own mind the cure for the shortage of houses was the entire repeal and removal of every kind and form of restriction and control over house property, leaving nature and the whirligig of time to bring their own cures. But would that be an expedient thing for any Government to do at the present time? After all, a Government had to bring in something which, with the forces at their command, could be passed into law. The Committee took the middle course and said, "Do not let us be too sudden. Let us work by "three stages to get rid of these restrictions. Let us also

"start with every house, as and when it becomes vacant, as "regards that house." Although the cure, to remove all restrictions, was to his mind the proper one, and although the Committee had said they would do it in stages, he still adhered to his own pet theory, namely, that, in view of what was politically expedient, if all rents had remained restricted but all other kinds of control had been removed, it would have restored confidence to the nation. The landlords said, "We do not want any more rent, we are not going to behave "like so many blackmailers," and to give effect to that view the landlords would willingly, to his mind, have assented to an Act which said that rents should not go up any more, but which gave back to them freedom of control. He still thought that would be the best solution of the whole matter.

It was stated in the press that the unfortunate tenants would one day be at the mercy of the landlords, but it could easily be put in an Act of Parliament that the mercy of the landlords extended up to the 40 per cent., and no more. If freedom of control were once obtained, confidence would be restored, and money would once more flow into house property as an investment. The only objection he had ever heard advanced to that—and it had been advanced by a member of the Rent Restrictions Act Committee—was that it would give the landlord power to turn out the existing tenant A and to put in tenant B, to which he (Mr. Gerald Eve) had replied that if tenant A had been in the warm for five or six years, was it not tenant B's turn to get the house? He saw no reason in giving a vested interest to tenant A. The population was so many; the number of houses was so many; it could not matter, or should not matter, to the State whether tenant A lived inside a house or whether tenant B lived inside it. He did admit, however, that there was one very good point which had been made against his argument. He had said, "If a landlord cannot "turn out a tenant, and thereby get more money, is it likely "that the landlord would turn out a tenant except for very "good reasons—reasons consistent with good management?" "Oh," said one of the members of the Committee (very

pertinently, he thought), "you may have a whole crowd of "people crowded into one of these houses which you call "house A. The landlord turns out A and lets in B, who "has a small family. Thereby a proportion of the popula- "tion now housed would be out in the air." That was, he thought, a proper criticism, but he did not think it was a fatal one, and he did not think that any other suggestion was as good as his own, namely, maintaining the restriction of rents but giving freedom from all other control.

The proposals which were adumbrated in the coming Bills were, roughly, that the State was going to lay down the proposition that if the Rent Restrictions Acts were removed gradually, persons, knowing that the Acts were being repealed, would start to build houses, except the very low-class weekly-rent dwelling, which it would not pay anyone to build in the expectation of receiving an economic rent. Therefore, with regard to that class of dwelling, the Government felt that the State ought to lend some financial aid. If the whole of the Acts had been repealed, and confidence had been restored, private persons would have built new houses, although, he admitted, not the very low-class weekly-rent dwellings. They would, however, have built the better class of artisan dwelling, and a lot of persons now occupying the low-class dwelling would have been glad to have moved up one, leaving room for the very poor people to get into the lower-class houses. He believed that that would have been the best cure. Instead of that, however, the State, very expensively, he thought, were going to help by paying a grant of £6 a year for twenty years towards the erection of those lower-class houses.

In addition to that, it appeared to be the intention of the Government to advance money to tenants in order to permit them to buy their houses. He did not think there was very much to be said for that. It only emphasised the vesting of A's house in A himself, and he could not see how it mattered to the State whether A should buy his house or whether B should. It was very difficult to gather from the foreshadowings in the newspapers whether the State was also going to advance money to persons in order to enable

them to build houses themselves. From what one could read, it seemed probable that the State was going to do so, but he suggested all that was necessary in that direction was the following: The State, by their legislation (it may have been necessary legislation), had in effect frightened away private money from having anything to do with house property under a certain rent level. There was no doubt about that; that was generally accepted. That being so—as the State had frightened it away—the State might well lend the money on mortgage to enable houses to be built. But his suggestion was that if the State said to a builder, "We will lend you the ordinary "two-thirds of value, repayable when you sell, or in two years' "time, whichever happens first," that that would be sufficient to enable a large number of builders to start erecting houses of all classes, except the very lowest class. The money should be lent at a low rate of interest—say 4 per cent. The result would be that all the State would lose would be, say, $1\frac{1}{2}$ per cent. for two years. If the money was not paid back in two years because the builder had not sold, then the builder should pay the State the ordinary market rate of, say, $5\frac{1}{2}$ or 6 per cent.

Mr. J. Steel (Fellow) remarked that lovers of Montaigne would remember that in the second book of his Essays there was a chapter entitled "Of bad means employed to a good "end," and in his dissertation one found the sentence: "Notwithstanding, the weakness of our condition doth "often urge us to this necessity, to use bad means to a "good end."

That dictum might have been placed, he thought, at the heading of the Majority Report of the Onslow Committee.

He did not propose in his brief remarks to deal with the various recommendations of the Committee *seriatim*, but rather to indicate the more salient features. In the opening paragraphs of the Majority Report there was a concise summation of the argument for and against the renewal of rent control. Mention was made of the reason for the present statute, which, as was well known, was the third

Act dealing with the subject. It might not be irrelevant to recall that the first inquiry had taken place in October, 1915, in Scotland, when a Committee composed of Lord Hunter and Professor Scott investigated "the cir-"cumstances connected with the alleged recent increases "in the rental of small dwelling-houses in the industrial "districts in Scotland." The inquiry showed that the average increase was 5·6 per cent., and no evidence was adduced to prove that the increases, either operative or intimated, were of a monopoly nature. For reasons not obvious to those most competent to judge, but possibly manifest to the politician, that Report did not have official approval. There might be noted what might not unfairly be termed a fundamental error, namely, standard rent. The rent paid at the 3rd August, 1915, varied in different districts according to local conditions. In some parts of England, on that basis, the owner had a return of approximately 7 per cent. In Scotland it was questionable if, on an average, the return exceeded $3\frac{1}{2}$ per cent.

In the general survey of the problem the Report characterised the present Act as "in essence a Tenants' "Relief Act," and it might have been added that, conversely, it had proved in result to be the nightmare of the owner and of the lender. From a close examination of the Report one gathered that the Committee had grasped that psychological factor of apprehension with its deadly effect in the property sphere. As Drover pointed out in his *Psychology of Everyday Life*, fear served to reinforce the tendency to avoid and escape from any situation threatening the life and comfort of the individual. Until that feeling of misgiving was removed, little progress could be anticipated. It was essential not only to restore confidence, but so to treat present property-holders that they might be able to receive a moderate return on their investments.

In their analysis the Committee had marked with due care the tenants' view-point, and none of the recommendations appeared to militate against the interests of that class. If undue care was taken to preserve the rights and convenience of present occupiers, there might be, from the

national view-point, disadvantageous consequences. There, unfortunately, the political element might obtrude, and one recalled the remark of Sheridan: "Conscience has no more "to do with gallantry than it has with politics."

The Majority Report did contain one vital recommendation, namely, that when any house within the ambit of restriction became vacant it should be withdrawn from the scope of the Act. That was suggested in the written reply of The Institution to the official Questionnaire. If adopted, that proposal would mark the first step towards freedom of contract. The fear expressed in various quarters that the result would be monopoly rents or evictions did not seem to have any real justification. The ideal of normality in housing conditions had apparently influenced the same views expressed in regard to "one-house" owners, to "alternative "accommodation," and to cases where the present control prevented execution of works of "public interest."

The question of mortgages showed differing opinions among Committee members. In the first reservation the reasons for immediate decontrol were based on a presumed "abundant capital" for replacement of present loans obtainable "without difficulty and at a reasonable rate of interest." So far as Scotland was concerned, those assumptions were inaccurate. Further, while lenders might have had, since 1915, what they considered an inadequate return, interest had always been paid, while owners, till the Act of 1920, had had steadily decreasing returns, and in many instances debit balances. The Reports of 1918 and 1920 recognised the need, however inconvenient, to treat owner and lender identically, and the adoption of the recommendation to grant a prior decontrol of loans might easily precipitate a property crisis of extreme magnitude.

The second reservation, made by Mr. P. B. Moodie of the Scottish Office, suggested a further increase of $\frac{1}{2}$ per cent. on loans, and was founded on a presumed "increased margin "of profit accruing to the householder owing to the fall in "the cost of repairs." In practice that postulate had slight warrant. So far as Scotland was concerned, little more than a half of the permitted increases had yet been received

by owners. Enquiries showed that lack of funds had resulted in the postponement of many needful repairs. Even if the position of the Scottish owner were rectified, and the cost of repairs diminished, the volume of essential outlay must increase, and there could be no improved return. Again, no cogent argument was adduced for the preferential treatment of the lender in contrast with the owner. That proposal, if adopted, might tend to restore confidence in the mortgage sphere, but it would, in like degree, deter the property investor, whose place and function in the housing question could not be ignored.

Perhaps he would be pardoned if some time was devoted a statement of the peculiarly unfortunate position of the Scottish property-owner, arising from the Scottish rating system. The Scottish rating system had much of the attractive simplicity of the Einstein theory. That point was especially emphasised in the written reply of the Scottish Branch, and the last sentence of paragraph 8 of the Report read :—

> "The Committee recommend that this matter should receive attention in connection with any new Act."

There was good reason to believe that that question would not be considered in the continuation Act, and his colleagues desired that the financial results of the present Rent Restrictions Act in Scotland should be permanently recorded. As surveyors they desired the re-establishment of confidence in the building world, and equality of treatment for property-owners throughout Great Britain.

As the members were aware, the owner in Scotland had to pay rates *qua* owner, and to that system was due the serious difference in financial result under the present Rent Restrictions Act. That question had been fully dealt with in paragraph 43 of the 1918 Report, and the considered view of that Committee was that—

> "In any continued control of rents by legislation, owners of houses in the different parts of the United Kingdom should be put on an equal footing to increase rent to cover increase in rates."

That recommendation had been accepted by the Government, and embodied in Section 9 (*b*) of the 1919 Act, but had not become operative. That section was repeated in the Bill of 1920 and was passed in Committee by the House of Commons. For some incomprehensible reason, at the Report stage the time limit of that clause was fixed at Whit-Sunday, 1920, in terms of Section 18 (1) (*b*) of the present Act.

As was obvious from the following examples, that restriction in the recovery of an increase in owners' rates had had a serious financial result. In Glasgow, between the assessment years of 1914-15 and of 1919-20, owners' rates advanced approximately 1*s.* 6*d.* per £ or 7½ per cent.; and the owner was permitted to add 40 per cent. plus the 7½ per cent. In terms of the 1920 Act, the first increase obtainable was 30 per cent. plus 7½ per cent., and the second increase 40 per cent. plus 7½ per cent. Since Whit-Sunday, 1920, there had been increases in owners' rates, and the actual cash results to owners in Glasgow, after the imposition of the 37½ per cent. and the 47½ per cent. rental advances, were shown in the following examples. It must also be remembered that in Scotland there was an annual valuation or assessment roll according to which rates were levied. Any change in rental, therefore, was quickly reflected in the amount of rates payable by owners and by tenants alike.

The following were the examples referred to:—

In Glasgow rating area, Glasgow parish, the owners' rates for the following assessment years were approximately per £: 1914-15, 2*s.* 8½*d.*; 1919-20, 4*s.* 3*d.*; 1920-21, 5*s.* 8*d.*; 1921-22, 5*s.* 3½*d.*; 1922-23, 4*s.* 7*d.*

In 1920-21 the increase of 37½ per cent. operated from 28th August, 1920. The result on a net rental of £100 was—

	£ *s.* *d.*	£ *s.* *d.*
Additional rent per £100		37 10 0
New "owners' rates"—		
£37 10*s.* at 5*s.* 8*d.* ...	10 12 6	
£100 at 2*s.* 11½*d.* ...	14 15 10	
		25 8 4
		12 1 8

i.e., approximately 12 per cent. as compared with 30 per cent. in England.

In 1921-22 the 47½ per cent. was charged from 14th July, 1921 :—

	£ s. d.	£ s. d.
Additional rent per £100		47 10 0
New "owners' rates"—		
£47 10*s.* at 5*s.* 3½*d.*	12 11 5	
£100 at 2*s.* 7*d.* ...	12 18 4	
		25 9 9
		22 0 3

i.e., 22 per cent. as compared with 40 per cent. in England.

In 1922-23 the 47½ per cent. was operative for the whole year :—

	£ s. d.	£ s. d.
Additional rent per £100		47 10 0
New "owners' rates"—		
£47 10*s.* at 4*s.* 7*d.*	10 17 8	
£100 at 1*s.* 10½*d.* ...	9 7 6	
		20 5 2
		27 4 10

i.e., approximately 27¼ per cent. as compared with 40 per cent. in England.

The average net increase for those three years was slightly over 20 per cent.

Further comment was obviously unnecessary, and could hardly be couched in parliamentary language. So long as that anomaly existed, the Scottish builder and property investor would be conspicuous by their absence.

The comment on those figures in the Minority Report stated : "It would be a mistake to assume that such repre-
" sentations were true in fact."

The calculations submitted could be verified by anyone with the requisite mental endowment, and the *suggestio falsi* of the Minority criticism was manifestly discreditable. What the Scottish surveyors suggested was equality of treatment for owners in Scotland and in England, the equity

of which had, in 1919, statutory acknowledgment. The views expressed by Scottish surveyors were based on financial experience and expert knowledge and were free from class preconceptions or political bias. Opinions so clearly founded were not in some spheres either welcome or acceptable. As Aristotle wrote in his *Politics*: "And clearly "those whom the legislator will most easily lead to virtue "may be expected to be both intelligent and courageous."

An adequacy of either quality was not too manifest in present-day Parliamentary life.

To sum up, the views embodied in the Majority Report appeared to be based on reason, and to be prompted by a conscientious desire to find a solution of the present critical problem of rent control. That those proposals had not had the unqualified approval of any of the parties interested seemed to indicate an absence of bias. While there might yet be doubt, it was earnestly to be hoped that the conclusions of the Majority would not be sacrificed on the altar of party politics.

The Minority Report had been characterised by Sir Kingsley Wood as a "political document." It was obvious that the two signatories really desired to perpetuate rent control, and they disregarded in the most palpable manner the rights of property-owners. Not only did they overlook the canons of political economy, but they refused on more than one occasion to admit certified figures and indisputable facts. On questions of theory divergent opinions were to be anticipated, but deliberate disregard of incontestable evidence was fortunately rare even in a Minority Report. In a recent publication Mr. J. H. Thomas stated: "Labour "never will seek other than justice for every branch of the "population."

The recommendations of the Minority could hardly be characterised as an example of the application of Mr. Thomas's dictum. The arguments adduced throughout that section of the Report would find little support from those whose practical experience in that connection was of real value, and the Minority recommendations would doubtless receive the consideration which they merited.

Major HARRY BARNES (Fellow) said he had rather hoped to have been called upon a little later on in the discussion after everything which could have been said against the Rent Restrictions Act Committee had been said, and when he could have picked and chosen a little more freely as to the matters in regard to which, as a member of that Committee, he might, perhaps be expected to say something.

He had listened with the greatest possible interest to the speech which had just been made, and he could not help but congratulate himself, as he listened to it, on the fact that he had signed the Majority Report and not the Minority Report. Mr. Steel had said, quoting Aristotle, that certain people were neither intelligent nor courageous. Certainly the members of the Committee had to be both intelligent and courageous when they had been dealing with some of the Scottish aspects of the case. If that side of the case had not received the attention which he gathered Mr. Steel thought it ought to have received, perhaps Mr. Steel would take it from him, as one who had had some slight experience in the House of Commons, that the reason was that if there was one thing which any member of the House of Commons, who was not a Scottish member, was very diffident of doing, it was to touch anything which referred to Scotland at all. A Scottish debate in the House was a signal for every member who was not a Scottish member to leave the House; if he did not do so the fact of his presence was resented by the Scottish members who remained, and if he should so far forget himself as to venture to intervene upon any matter which was, even remotely, related to Scotland, he was immediately put into his proper place. That feeling in the House of Commons had probably transferred itself a good deal to the Departmental Committee, and had certainly affected everybody there who was not a Scottish member.

Some very nice things had been said by Mr. Eve about the Committee and about its composition. Without taking any part of those to himself, he had been very glad to have heard them said, and he had been specially glad to have

heard them said by Mr. Eve, because Mr. Eve had certainly had a very considerable opportunity of forming an impression.

Speaking not as a member of the Rent Restrictions Act Committee but as a member of The Surveyors' Institution, it was a matter of gratification to him that the views of The Surveyors' Institution should have carried the weight which they had carried with that Committee. That was a matter of pleasure, although it was not a matter of surprise, because his experience in his short political life in the House had been that the opinions of The Institution did carry a very real weight both in the House and in the Committee. There had been sitting on the Committee a very distinguished member of The Institution whose name appeared as a signatory to the Majority Report, and he was quite sure that nothing would give more satisfaction to the men who composed that Committee than the commendation which Mr. Eve had bestowed upon it, because it had had to deal with a subject which was peculiarly the subject of The Institution. If what the Committee had done turned out to be something which, if not perfect in itself, was something which did, on the whole, commend itself to The Institution and to its members, he thought the Committee had every right to be satisfied with the course it had taken.

Reflection sometimes altered one's judgment, but on looking back upon the transactions of the Committee, and having taken the opportunity, as he had done before coming to the meeting that night, of refreshing his memory by reading through the whole of the evidence, including the Scottish portion, he could not see how the Majority could have come to any other conclusion than that which they had done. It had been very well said that, after all, what the Committee had had to do was to decide upon some policy which could be carried out by a Government. It had been impossible to put aside not only the psychological but the political effect of the Committee's work. On the other hand the Committee had been bound to give a report which should be in cognisance with the evidence which had been given before it, and he felt perfectly satisfied that if any member of The

Institution had had the opportunity of going through the whole mass of the evidence (he did not think that many of them would avail themselves of it if they had it), they would have come to the conclusion that the Report of the Majority Committee was in accord with the general tenor of the evidence. He might perhaps just tell those present what that evidence was. In the Report the names of the witnesses were set down. For the purpose of what he was going to say he would set aside the whole of the witnesses on behalf of tenants' organisations—not out of any disrespect to them at all, but because they might probably be regarded as being biased in the matter. He did not think anyone would contend for a moment that the Committee had not had before it men who were the most competent to speak for the body of opinion which they represented. The Committee had not been in the position of a body which had had to make a report upon insufficient evidence. The Committee had really had first-class evidence put before it. What had been that evidence? He could sum it up fairly briefly. The general consensus of evidence from the quarter of the property-owner had been as follows: "At this present "moment there are practically no empty houses in this "country." That was the first thing which the Committee had before it. The second thing had been—and it had been repeated over and over again with the greatest emphasis—"There are no builders in this country prepared to go on "with the erection of working-class houses, for the reason "that they cannot get an economic rent." The Committee had been told that that economic rent would be at least 100 per cent. more than the pre-war rent. Therefore the Committee had had those two facts before it: no empty houses and nobody prepared to build working-class houses.

Then the Committee had been told that money could not be borrowed on mortgage on that class of property. That evidence had come from the very highest authoritative sources. Reasons for that had been given. One reason had been that anybody at the present time would have to write own a very considerable amount of their capital cost.

That was one thing which stood in the way of money being lent. Perhaps the most striking thing which came before the Committee (he did not think it would be proper for him to name the gentleman who gave the evidence) had been that money could not be obtained on that class of property, not because of the Rent Restrictions Act, but because of the Housing and Town Planning Act. The Committee had been told by a man representing a great national organisation of property-owners that the Housing and Town Planning Act, which gave local authorities power to take away property, was making mortgage business on that property absolutely impossible.

Then when the question had been asked—as it had been asked over and over again—whether the repeal of the Rent Restrictions Act would result in the operation of private enterprise in providing working-class houses, the Committee had been told by witnesses, who repeated their answer after they had been challenged by members of the Labour Party sitting on the Committee and asked if they were speaking with full responsibility of what they were saying, that the repeal of the Rent Restrictions Act would not have that effect. That had been the position in which the Committee had found itself. The members of The Institution could take it from him that the members of the Committee had gone to work with the desire, if they could possibly do it and if it were in agreement with the weight of evidence, to recommend the repeal of the Rent Restrictions Act, and if the evidence could have supported that recommendation it would have been made.

He thought a very fair distinction had been drawn between the Majority and Minority Reports. He agreed that the Minority Report was essentially a political document; but he thought it was also true to say that, in so far as a report of a Committee of the kind could be free from political bias, the Majority Report was so free. It was an honest attempt made to meet the difficulty caused by the existence of the Act. The effect of the Report had been seen very shortly afterwards, and it had had its reflex in the political contests which followed. The suggestion which

had been made, that middle-class houses should come out first, had not borne the fruit which perhaps some of the members had expected it would bear; but that suggestion had been made to the Committee by a witness who occupied, in connection with property, perhaps the most responsible position in the country.

That had been the evidence which had been submitted to the Committee by witnesses of the highest character and standing. He submitted with confidence to The Surveyors' Institution, as he would to any other body in the country, that the Majority Report of the Rent Restrictions Act Committee was probably the nearest thing to equity and to justice and to a practical handling of such a difficult question which could be arrived at. What the Bill was going to contain he did not know, but in so far as the Bill carried out the recommendations of the Majority Report, in so far would it do as much justice as could be done, and would probably lead to as satisfactory an immediate solution of the problem as could be achieved.

Captain W. T. Creswell (Associate) said that after what the previous speaker had said anything he would say might be thought mere shouting in generalities. A good deal of that had already been done, and he supposed a good deal more would be done—touching the questions under discussion, questions which bristled with difficulties. After what had been said it did seem to him that the Majority Report of the Departmental Committee should undoubtedly receive every consideration, and be accepted as a reasonable and well-thought-out solution.

In seeking for a cause for the present dearth of houses—although undoubtedly one cause for that shortage was wrapped up with the difficulties that had arisen under the Rent Restrictions Acts—one had to recall the legislation of 1910. It was sometimes forgotten, he thought, that the dearth of houses was not due entirely to the war. It was due also to the legislation of 1910, which had caused a lack of confidence amongst speculating builders and private individuals, so much so, that they would not put their money

into houses or land. He ventured to suggest that it was not fully realised where the country would have been in the matter of houses prior to 1910 had it not been for what was called "the speculating builder."

As he had said, in 1910 the difficulties began. What was the position now? The suggestion was made to continue the Rent Restrictions Acts which had been made necessary owing to the war. In effect that meant the continuation of the nationalisation of house property. Until in matters concerning building the country got back to where it was in 1910, and until freedom of action was given not only to the builder, but also to the landlord, there would be no improvement. He said "also to the landlord" because he had come across cases where unscrupulous tenants had made use, and very bad use, of their advantages under the Act. He had one case in mind where a tenant "holding "over" had treated the property in such an untenantlike way that it had much depreciated in value. The landlord was abroad, and did not look to his own interests, as he otherwise would have done had he been in this country. The tenant offered to buy the house, but at a very low figure because of its "bad state of repair." The tenant thus hoped to obtain the house much cheaper because of its condition, such condition being due to his negligence whilst "holding over" under the provisions of the Rent Restrictions Acts.

Unless what he had termed nationalisation of property ceased, the tendency in the future (as it had been since 1910) of those who were thrifty would be to transfer, or to put, their savings into securities which were not nationalised rather than invest them, as they used to do, and would do in ordinary circumstances, in house property.

Mr. Percival Fox Tuckett (Member of Council) remarked that the recent by-election, which came upon the country shortly after the publication of the Committee's Report, was, he thought, not only a misfortune to the Government, but a national misfortune, because while every one knew that a certain amount of agitation must occur when the

present Rent Restrictions Acts were repealed or amended, yet he believed (even though he sympathised with the Government entirely in the position in which they were placed) that the sign of weakness which the Government had shown in response to the agitation in the press and elsewhere had caused the highest possible loss of confidence amongst the building world. That weakness on the part of the Government had done more to postpone building than anything else which could have occurred, because the people who, up to that time, had been prepared to proceed with building, did not now believe that at the end of three years, or whatever period might be fixed, there would be a strong enough Government to withdraw the restrictions.

He did not wish to be in the least political, but he did desire to emphasise the fact that owing to this weakness an unfortunate feeling had been created that the present rent restrictions would not be taken off in the near future. In fact the Government had practically promised that unless a sufficient number of houses had been built by 1925 the rent restrictions would be still further continued, and so, presumably, *ad infinitum*. He thought the evidence given before the Departmental Committee had clearly proved that, in the opinion of all those who really understood the subject, the sooner the restrictions were removed the better it would be for the community at large, as, until houses were once more free, there would never be private building on a large scale, such as there had been before 1910; indeed, the fear was that in three years time the popular agitation would be worse than it had been at the beginning of the present year, and the present Government had, he believed, lost a great opportunity which might never occur again.

Anybody who knew the subject would admit that the Committee's Report was a very fair and honest one, and met the position in a manner that any property-owner or tenant could and should approve. He himself would have gone even further than restricting rents; he would have restricted the purchase price as well. He quite agreed with Mr. Eve that, speaking generally, property-owners would not complain of a limitation of rents provided the other con-

ditions and restrictions contained in the Acts were repealed, and if only the Government, in the Bill that they were about to bring in, would have the moral courage to confine themselves to the question of rent and give back to the owners the control of their property, confidence would be largely restored. No doubt that would lead to temporary dislocation and change of tenants, but, speaking broadly, it would only be the bad or objectionable tenants who would be disturbed, as if landlords could not get more rent, and if, as he suggested, they were also only able to sell at a fair price, there would be no inducement for them to get rid of good tenants, and the general disturbance would be very small. He also agreed with Mr. Eve's remarks that the smallest class of workmen's cottages were not likely to be erected by private persons under existing conditions, but there was a large number of people occupying that class of house who would only be too glad to get into a somewhat larger and better house, so that the erection of better class houses would automatically help to remove the pressure on the smaller class of house. He agreed that, apart from the Rent Restriction Acts, the provisions of the Housing and Town Planning and Public Health Acts were so onerous that the ordinary private investor would not look at small property, because they were not only continually being worried, in many cases quite unfairly and unnecessarily, by the local inspectors, but also, if the houses were kept up as they should be, the net financial return was not attractive, and certainly was not an investment which a surveyor could recommend to a client, if considered purely as a commercial transaction.

With regard to financial assistance, if the restrictions came off he believed there would be no difficulty in getting money. There were plenty of building societies who would lend money to purchasers.

Personally, before the fatal surrender of the Government, he had been looking forward to great building activity this coming summer. During the winter and early spring he had had a good enquiry from builders who had been going to take land from him on which to build houses of types

even down to £20 a year, but the instant the Government had wobbled over the Rent Restrictions Act (when faced by the not altogether creditable onslaught of a certain section of the press on the chance of obtaining cheap popularity as soon as they saw the Government could be intimidated), the inquiries at once ceased, and from that date he had not let one single piece of land, although shortly before he had effected lettings and sales of building land amounting in capital value to some thousands of pounds.

Mr. J. Calvery Spensley (Fellow) said that Mr. Tuckett's suggestion, that it was impossible for owners of pre-war workmen's cottages to make them pay at the present time, was rather a surprise to him, because the experience of the London County Council was quite different. The London County Council had a very large amount of working-class property in which was housed a population exceeding 60,000, *i.e.*, larger than the entire population of such cities as Gloucester or Exeter. Before the war, after paying all charges, there had been a surplus of £11,500 a year. During the war and until the year 1918 there had also been surpluses, but in the years 1919 and 1920 there had been deficits of £7,000 or £8,000. In 1921, however, owing to the 40 per cent. increase in rents, there was a surplus of £15,000, and in 1922 £23,000, the largest surplus yet realised. Probably in the year 1923 the surplus on the pre-war estates would be as much as £40,000. In those circumstances it seemed difficult to understand why it should be considered impracticable to maintain pre-war working-class property in good condition as a paying proposition with rents increased by 40 per cent.

With regard to the second paragraph of the Memorandum of the Council, the idea underlying it was that decontrol meant more housing. The meaning of that, presumably, was that if old houses were decontrolled, such high rents would be got for them that the rent standard would approach the remunerative rent of new houses. To his mind that was the only possibility of decontrol resulting in more houses.

The first question was, By how much was it necessary to increase the 40 per cent., permitted under the Rent Restrictions Act, to arrive at that position? Major Barnes had said that evidence had been given before the Departmental Committee that the 40 per cent. would have to be increased to no less than 100 per cent. before that position was arrived at. That seemed very probable. Taking a pre-war house costing £1,000 at 5 per cent., that was £50; repairs would be £10, and the remuneration rent £60. At the present time the £1,000 would be £1,800, the 5 per cent. would be 6 per cent., so that the net rent would need to be £108; the repairs would be £18, and the remeneration rent at least £126, which was 110 per cent. above pre-war.

There had been an interesting discussion a short time ago, under the auspices of the South-Western Branch, in which it had been suggested that two or three years hence building costs would be stabilised at about 50 per cent. above the pre-war level. In that event the pre-war £1,000 would be £1,500, which, at 5 per cent., would show a net rent of £75; the repairs would be £15, and the remuneration rent would be £90. That was 50 per cent. above the pre-war level. Was it suggested that it would be in the public interest that the present increase of 40 per cent. should be temporarily enlarged to anything approaching 100 per cent. pending the building of sufficient houses whose remunerative rents would be 50 per cent. above the pre-war standard? It seemed to him that that was a very difficult position to take up, especially as it would appear to be physically impossible to make up the arrears of house building in less than five years.

That brought him to the point which Mr. Gerald Eve had made, namely, that if rents were restricted to 40 per cent., then all other restrictions could go by the board. He had not heard that suggestion before, but it did seem to him that it might well be a solution of the difficulty. The Mitcham electorate did not apparently object to having the increase of 40 per cent.; it was the taking off of the 40 per cent. restriction to which they objected, because they knew that probably there were a great many landlords who would

not be satisfied with the 40 per cent. while there was a great stringency of houses.

Another point he wanted to make was that in order to make the letting of new houses renumerative, one had not only to provide for an increase of 100 per cent. in the rent standard, but one had to provide for a certain fall in building values from 80 per cent. to, say, 50 per cent. above pre-war; that was to say, to provide for the £1,800 (which was £1,000 pre-war) being worth only £1,500 in a few years' time. Provision had also to be made for the fact that interest, too, was likely to fall; that was to say, whereas a man investing £1,800 now in ordinary investments might expect in a few years' time to find his investments worth £2,000, in building apparently his investment would be worth only £1,500. These two factors combined probably accounted more than anything else for investors not being prepared to build at the present time on a falling market.

The next question was, Did the landlord of a pre-war house really need more than the 40 per cent. increase? He would not detain the meeting long on that point, but a rack-rent of £60 pre-war could be increased to £84 now by the 40 per cent. Repairs would be increased from £10 to £18, and the net rent instead of being £50 pre-war would now be £66. If two-thirds of the money had been borrowed pre-war, at $4\frac{1}{2}$ per cent. (£30) £20 or 6 per cent. would have been left for the owner. At the present time the $4\frac{1}{2}$ per cent. interest on mortgage had been increased to $5\frac{1}{2}$ per cent., leaving a margin for the owner which brought him in very nearly 8 per cent. instead of 6 per cent. pre-war. In those circumstances it did not seem to be necessary to increase the 40 per cent. for the benefit of the landlord. In practice, as he had pointed out, the London County Council, in their capacity as landlords of pre-war housing estates, were securing a much larger margin now than they received pre-war.

With regard to paragraph 3 of the Council's Memorandum it stated that there were, to their knowledge, a great many people occupying houses, recently erected under the housing schemes, who would gladly pay higher rents for more

accommodation as soon as it was available at from £40 to £80 per annum. He did not know whether The Institution realised it, but for £40 on the new housing estates one could only get (except at Becontree) a three or four-roomed cottage. If one wanted a five or six-roomed cottage, one had to pay £55. His own experience was that the greatest demand on the part of tenants on the new housing estates was for smaller houses rather than for larger houses because they could not afford to pay the rents charged under the housing schemes.

With regard to paragraph 4, the proposal to decontrol houses which became vacant was a reversal of the principle that it was the house which was protected and not the individual tenant. The proposal, if adopted, would probably result in an undesirable restriction on movement of population.

Sir Edwin Savill, O.B.E. (Vice-President) said he only rose to emphasise as far as possible Mr. Tuckett's remarks. He was interested in a good deal of building land round London and other towns, and for the six months up to last Christmas his firm had sold more building land than they had sold for the last ten or fifteen years. He confessed that it amounted to very little, but that had been the fact. There had been quite a growing demand, and not only a growing demand but a growing interest. Builders had been making enquiries and inspecting land, and he had thought confidently, and had told people, that there was going to be a building boom, and he had thought that by the present time very many houses would have been started. The Majority Report of the Committee had not stopped that boom, but directly the Government had begun to give way the whole thing had fizzled out, and now there was scarcely any enquiry for building land at all. It was no good talking theory on the subject when there was absolute practice to fall back upon, and evidence which was irrefutable. Why had builders suddenly stopped and lost all confidence? It was nothing but Government weakness. He agreed that one might not be able to point out where the Rent Restric-

tions Act hurt the builder of houses. It was very difficult to say where the Finance Act of 1910 hit the builder of houses, but it had stopped him, as the present political situation to-day had stopped him. So long as there was Government interference of any sort, he did not care what it was, whether the new scheme or any other scheme, the country would not get houses. How one was going to convince the politician or the Labour Party of that fact he did not know.

Mr. Cuthbert J. Lake (Fellow) said he thought there was one thing which might be said in that room, and that was that the law of the land had remarkably little to do with the real relationshop between landlord and tenant. Surveyors knew, from their practical experience, more about it than most folk, because they had to deal with working-class houses and all sorts of other houses. It was a remarkably small percentage of landlords and tenants who considered the law at all. It was only really the "bester" and the bad tenant who did consider it very much. He was quite certain, from such experience as he had had, that the greater part of the housing problem would have been solved if the country had been able to have got rid of control three years ago. The effect of its continuance had been the same as that of the land tax legislation enacted in the 1909-10 Act. The cause was not easily definable, but the fact remained that it destroyed confidence.

His experience of land had been precisely the same as that of other speakers. He was sure every member would agree that the sooner control was done away with the better. The sooner Parliament ceased to consider solely the protection of the idiot and the wholly incompetent person, the better it would be for the community at large. If there was freedom from control at the present moment, the result would be a tightening up of the sanitary Acts, and the driving out of a certain number of people from tenements, which were uninhabitable, into the workhouses, which were almost vacant. The populace of this country would not be driven into the open, nor would they have to sleep in the snow,

they would still be housed. The mere fact that there was freedom from control would bring far less hardship than there was at the present time under the control. It was only the dealer and the "bester" who dragged down the name of landlord until it stank, and, with freedom from control, the usual economic forces and ordinary human nature would bring more content and far better housing than had ever existed since 1888 and 1889, when there had been a glut of houses.

Mr. C. D. Conquest (Fellow) said he only rose in view of the remarks which had been made by Mr. Tuckett and Sir Edwin Savill putting the trouble down to the wobbling of the Government. If he might humbly do so, he quite agreed with that point of view. One point struck him forcibly, because, being only a middle-class man himself and living in a middle-class dwelling, he had a large number of friends — educated people — such as retired Indian Civil servants and others who usually he put down as somewhat conservative men and women. A number of these had visited him about the time of the Mitcham and other elections, and had expressed themselves as dead against the proposals of the Government; he believed, for one reason and one reason only, namely, that they did not really understand them. He wished to suggest, if he might, that something should be done by The Institution in the way of propaganda and explanation. People did not understand the question. He did not blame them. It was very complicated. The only information such people got—either from the press or from interested societies—was all in favour of the continuance of the restrictions. Ordinary people looked upon surveyors very largely as the mouth-pieces of the landed classes, and thought that the whole endeavour of surveyors was to get the removal of the restrictions so that they could have a good time. He had had that said to him time after time. Something in the way of a clear, lucid and short explanation, given by a body of people who really did understand the matter, was the only way, in his view, to win over that class of opinion which it was necessary to obtain before control was removed altogether.

Mr. E. A. Rawlence (Member of Council) said he heartily agreed with Mr. Eve's solution of the Rent Restrictions Act. He thought it was the only possible way of overcoming the difficulty. Personally he was in favour of a maximum increase up to 50 per cent., but he was quite willing to give way and to agree to the 40 per cent. for, say, three years.

One or two facts had to be faced. One was that somebody must suffer before the country could get out of the muddle into which it had been forced by the housing question. The owners had suffered enough up to the present, especially small owners. In pre-war times, before the Act of 1910, house property was a very favourite investment for small shop-keepers, and others of a similar class, who had saved a little money in business. The hardships from which such persons were now suffering were cruel, especially as they saw their tenants making enormous profits by sub-letting a single room for as much as they had to pay for the rent of the whole house. The tenants had had their turn, and he did think that the owners were now deserving of some consideration.

Another point on which he felt very strongly was the prevailing scandal of the over-crowding of houses—three and four families living in one house. Within 200 yards of his own residence there was a four-roomed house occupied by a father and mother, and three of their married children, with their children, were living in each of the other rooms. How could children be trained up decently and morally if they saw everything that went on between married couples? Something had to be done. Some sacrifice had to be made to do away with the terrible over-crowding which there was at present in housing.

One suggestion he would make was as follows: Cheap money seemed to be the great necessity. The Government had something like £250,000,000 of Post Office money at $2\frac{1}{2}$ per cent. Why should that not be used? Why should not the Government give the depositors another $\frac{1}{2}$ per cent., the Government guaranteeing the security of the money? He

thought the depositors would all agree to their money being used for such a purpose. If another ½ per cent. were added for the working of the scheme, that would permit of a loan at 3½ per cent. of, say, half the cost of building each house for a certain number of years, possibly repayable by instalments. He did not know whether that suggestion was worth anything; he merely passed it on. He thought all would agree that something would have to be done, and that the Government must give up their wobbling and settle on something tangible and let the country know what it was. The condition of affairs in many places of which he knew personally was nothing less than a scandal to a civilised country like Great Britain.

Mr. A. B. Thornton (Fellow) remarked that there seemed to be a large body of opinion in The Institution which agreed with The Institution's Memorandum to the effect that, if all restrictions were removed, the problem would largely solve itself, but he did not think it would entirely do so. The whole crux of the matter, to his mind, was the housing of the lower strata of the population—the poorest class of wage-earners. He did not see how any decent dwellings could possibly be built to-day, acceptable to the community at large, which could be let at such rents as would provide a remunerative investment. The rent restriction difficulty would solve itself, and was gradually doing so to-day, as regards the better class of restricted houses. Tenants were gradually moving away or acquiring their own houses, and there was no doubt that, if the Majority Report proposals had been carried out, the problem of those houses would have solved itself without much trouble; but the real difficulty arose when the poorer class of people, who could pay a rent of only a few shillings a week, came to be dealt with.

Mr. Tuckett and Sir Edwin Savill had referred to the building boom which had been in prospect at one time, but they had not said that the builders referred to had been going to build houses for the poorest class of people. Until the problem of housing that class had been solved, he did

not think they would get rid of the agitation for the continuance of rent restriction. It was all due to the economic condition of the country. The wage which industry could pay to-day could not be reconciled with the present cost of building and building materials.

The PRESIDENT, in proposing a vote of thanks to those gentlemen who had taken part in the discussion for the manner in which they had put the whole matter before The Institution, said the question of the Rent Restrictions Act, was a difficult one indeed. Various remedies had been proposed by the speakers, but the political aspect of the question added seriously to the difficulty of settlement. He agreed that some solution would have to be found and that it was incumbent upon the Government to make up their minds what that solution should be, and in deciding that they would have to face the fact that whatever they proposed now ought to provide a final remedy. The suggestions which had been made during the discussion would no doubt be reported fully in the Press, and they might be helpful to the Government in solving the problem before them.

The vote of thanks was carried with acclamation, and the meeting terminated.

PAPER 476.

SOME FUNCTIONS OF A SURVEYOR UNDER THE SETTLED LAND ACTS, 1882-1890, AND PART II. OF THE LAW OF PROPERTY ACT, 1922.

By C. Herbert Bedells (Member of Council).

To be read at the Ordinary General Meeting of The Surveyors' Institution, on Monday, 7th May, 1923.

It strikes me as strange that our *Transactions*, with all the variety of their subject-matter, have contained no Paper expressly on Settled Land.

To those members whose every-day experience includes advising with regard to property held under settlements the duties on the one hand, and on the other the difficulties which have arisen in practice with regard to them, are, of course, familiar, but probably there are not a few of the younger members, and some amongst their seniors, who are but seldom called upon to advise under such circumstances, to whom such a review may be of value. The passing of the Law of Property Act, 1922, Part II. of which deals with settled land, and embodies the amendments which the experience of the past forty years had indicated to be necessary or desirable, appeared to afford a fitting opportunity for the contribution of a Paper reviewing the past and looking forward to the future, more especially in view of the fact that the powers exerciseable under the Settled Land Acts, &c., are, by Section 26 of the Law of Property Act, 1922, made applicable to land held under charitable, ecclesiastical, or public trusts; subject, however, to the obtaining of such consents or orders (if any) as would but for the passing of the Act have been requisite.

Moreover, in view of the expressed intention of the Government to bring in a series of consolidating Bills dealing with the various sections of the Law of Property Act, to be carried into law before the 1st January, 1925, on which date the Law of Property Act comes directly into operation, it appeared possible that, in the course of a discussion on the subject, matters either of doubt or difficulty might emerge in respect of which a timely representation in the proper quarter might, as on other occasions, have a useful result.

A further circumstance which appeared to make the present an opportune moment for discussion was the appearance of the Report of the Royal Commission on Oxford and Cambridge Universities, and particularly of Part C, viz., the Report of the Estates Committee, so facetiously referred to by Lord Ernle in his speech at the Annual Dinner.

The Commission, over which the Rt. Hon. H. H. Asquith presided, included the following members connected with our Institution: Lord Ernle, The Hon. Gerald Strutt, Sir Howard Frank, Bart., Sir John Oakley, and Mr. Herbert Mansfield Cobb, who constituted the Estates Committee.

As you are all aware, the University Estates Act, 1898, incorporates many sections of the Settled Land Acts, and the Law of Property Act, 1922, also incorporates many of the provisions of Part II., and makes them applicable to college estates. (See Sections 41-46, 60, and 65.)

As no Paper of the kind had so far been offered, I undertook to prepare one, relying upon the co-operation in the discussion of those who are able to speak out of a very much wider acquaintance with the subject than my limited experience has given to me, to correct any mistakes into which I might fall, and to supplement the Paper in directions which would make it of more practical value.

As I proceeded with my preparation I found that only the fringe of the subject could be dealt with at all properly within the limits usually allotted to a Paper, and what I have written is an instalment only. I hope, however, that it will serve as a foundation, and that some other member

interested in settled estates will take up the subject, and deal with the many sections of the Law of Property Act, Part II., which I have only been able to touch, and also more fully with the powers of sale and exchange of settled land, the questions relating to mining leases and timber on settled land, and many another. As will be seen, all that I have been able to do is to deal with improvements, repairs, the general position of the tenant for life, with leases and surrenders, and to some extent with sales.

It is desirable, first of all, to clear the ground by some slight definition of terms.

The legal definitions of settled land contained in Section 2 of the Settled Land Act, 1882, and continued in Section 188 of the Law of Property Act, 1922, concern lawyers, but for our purposes it will be sufficient to refer to it as land which stands limited to or in trust for any persons by way of succession; as to which the present owner is a tenant for life, with a remainder-man interested as reversioner, and land which is administered largely on the principles applying to settled land.

The Settled Land Acts.

The most important are the Settled Estates Acts, 1882-1890, and the Law of Property Act, 1922, Part II., Schedule X., but the surveyor interested in settled land is concerned also with the Improvement of Land Act, 1864, as amended by the Improvement of Land Act, 1899; the Land Drainage Act Amendment Act, 1845; the Limited Owners' Residences Act (1870) Amendment Act, 1871; the Limited Owners' Reservoir and Water Supply Act, 1877; the Housing of the Working Classes Act, 1890; the Housing and Town Planning Act, 1909; the Agricultural Holdings Act. 1908; and the Land Settlement (Facilities) Act, 1919.

The Surveyor.

The 1882 Act and the 1922 Act alike provide for the employment, for certain purposes, of a competent engineer or "an able practical surveyor," a phrase first used. I

believe, in the Lands Clauses Act, 1845. No definition or other qualification is given, and it would be reasonable that some standard of attainment and professional status, such as might be indicated by membership of our Institution, or as the result of a proper Registration scheme, should be laid down for the protection of the public.

Where capital money is in court, or where the Board of Agriculture is concerned therewith, these authorities require to be satisfied as to the experience and competency of the surveyor advising.

While on this point I may raise a question. The surveyor employed has to be "employed independently of "the tenant for life," but within my own experience the tenant for life has been allowed on application made to employ the same surveyor to carry out the improvements, as had been previously appointed to certify the amount of capital expenditure. In favour of such a course it may be said that it saves expense, that no one knows better than the surveyor employed to carry out the work its cost, and, in cases in which apportionment of expenditure is called for as between capital and income, no one can so readily adjust the same. I should like to know, however, what view is taken as to this.

At the outset I ought to point out the necessity for the surveyor making himself acquainted as far as possible with the terms of the settlement under which the property he is to deal with is held, because, first, there may be express directions affecting it, and special powers given, differing from the general powers under the Settled Land Acts, and it may be desirable to exercise any discretion there may be to use the powers of the settlement rather than those of the statute, bearing in mind, however, that if these powers are exercised, the provisions relative thereto must be followed, and that where the powers of the settlement and the Settled Land Acts actually conflict, the Settled Land Acts prevail.

It may be convenient to deal first with the function of a surveyor in respect of authorised improvements. The surveyor has to consider (1) whether the works in contempla-

tion or already carried out come within the clauses in the various Acts above referred to; and (2) if so, and the powers of the Settled Land Acts are used, to certify that the work, or some specific part thereof, has been properly executed, and what amount is properly payable in respect thereof.

At present, and until the Law and Property Act comes into operation, improvements in respect of which capital money is required have to be embodied in a "scheme" determined before the expenditure is made, unless otherwise permitted by order of the Court, under Section 15 of the Settled Land Act, 1890.

In future (after the first January, 1925) no scheme will be required, and no consent of the trustees be needful, for improvements under the Settled Land Acts of 1882 to 1890, or the Law of Property Act, 1922. This will assist surveyors in certifying actual and proper expenditure. Hitherto "extras" could only be included if not contrary to the conditions of the trustees' approval: and it will also give the tenant for life latitude to change his mind and adopt improvements found desirable in the course of carrying out the work, as contrasted with the rigidity under which the trustees, having once approved a scheme, have not been at liberty to consider an alternative scheme.

I am disposed to think that improvements, if carried out under the powers of the Improvement of Land Act, 1864, would still require to be the subject of detailed plans and specifications approved before the work is done but it is not likely that this Act will be so largely made use of in future. The cost of improvements could not, under the Settled Land Act of 1882, be paid for by money borrowed for the purpose. The Settled Land Act of 1890, while by Section 11 it authorised the raising of money by mortgage and otherwise to discharge encumbrances on settled land, did not authorise the borrowing of money for improvements. This power is now, however, by Sub-section (2) of Section 65 of the Law of Property Act extended to apply to money required for payment of authorised improvements, no sanction being required for the purpose, thus rendering it not necessary as it had

been in the past, where capital money was not in hand, to make application to the Land Commissioners for leave to borrow under the Improvement of Land Act, 1864.

I have prepared a schedule of the improvements authorised by various statutes which may be useful by way of index, and to facilitate comment I have set out in full Section 25 of the 1882 Act, not only because this list is the basis to which Section 13 of the Settled Land Act, 1890, and Section 65 of the Law of Property Act, 1922, are supplementary, but because the improvements mentioned therein are, by Section 30 of the Act of 1882, incorporated with those enumerated in the Improvement of Land Act, 1864. In the course of my comments it will appear that some of the alterations made by the Law of Property Act, 1922, are so made to, in effect, reverse decisions in the Courts.

Settled Land Act, 1882.

Sub-section (1).—"As to Drainage."

As far as I am aware, the only questions which have arisen have had reference to what may be described as "domestic drainage." The words of the judgment in *Lord Leconfield's Settled Estates* may be quoted: "If the Court "find that the tenant for life consulted matters of con- "venience only, that expenditure cannot be allowed; but if "the expenditure has been substantially for the purpose of "making one complete system of drainage, I think it ought "to be allowed." In the end the engineer's certificate included drainage, structural alterations of w.c.'s, hot and cold-water supply, and waste pipes. On the other hand, the equipment of *new* bathrooms and lavatories seems to have fallen on a tenant for life.

In the case of *Caldwell* v. *Lever* (1897) it was decided that the cost of sanitary work executed under the Public Health Act, London, 1891, upon settled leaseholds, was payable by the trustees out of *Corpus*. And in *Weatherall* v. *Thomas* (1899) Mr. Justice Byrne decided that, notwithstanding a direction in the will that, "pending sale, the "rents, after payment of all incidental expenses and out-

goings," were to go to the tenant for life, re-drainage expenses were payable out of capital.

Sub-section (vi.)

"Enclosing" was held to cover the re-building and extension of brick walls enclosing garden of the principal mansion-house.

Sub-section (x.)—"Cottages for labourers, farm servants and artisans employed on the settled land or not."

It was sought to bring an agent's house within this class, but the decision was to the effect that though a cottage for a farm bailiff would come within the section, a cottage for an agent would not.

This is now altered by Sub-section (1) of Section 65 of the Law of Property Act, 1922, which expressly covers residential houses for land agents, &c., and for other persons employed on the settled land, or in connection with the management or development thereof.

Sub-section (xii.)—"Sawmills, scutch and other mills, water-wheels, and engine-houses . . . which will increase the value of the settled land for agricultural purposes or as woodland or otherwise."

Under this clause the cost of an engine-house for an electric-lighting plant was disallowed because it did not increase the value for agricultural purposes, and the words "or otherwise" were to be construed as relating to things *ejusdem generis*, and as not capable of a meaning wide enough to bring in electric lighting. It was also sought, but unsuccessfully, to get electric-lighting installation under the word "Additions" in Sub-section (2) of Section 13 of the Settled Land Act, 1890. Electric light and power-works are now expressly included in Sub-section (3) of Section 65 of the Law of Property Act, 1922, and in Sub-section (8) electrical engine-houses and electrical plant are authorised in connection with the principal mansion-house or other house or buildings, but in this case subject to repayment of capital money expended.

Sub-section (xiii.)—"Reservoirs, &c."

This section has been held to cover the provision of a complete equipment for fire-extinguishing purposes including hoses and hydrants. The Limited Owners' Reservoirs and Water Supply Act of 1877 authorises works in connection with water supply provided "they will effect "a permanent yearly increase of value of the settled land "or be permanently productive of a yearly revenue exceeding "the yearly amount proposed to be charged on the property." Boring for water and other preliminary works are authorised by Sub-section (6) of Section 65 of the Law of Property Act, 1922.

Sub-section (xvii.).

This clause deals with the development of settled land as a building estate. The turning of arable land into a cricket field has been allowed under this clause, but not the pavilion in connection therewith, though a club-house for a golf course was allowed in Earl de la Warr's case.

It will, however, be noted that Sub-sub-section (iii.), Section 65, of the Law of Property Act, 1922, greatly extends the powers of expenditure under this head, and permits of the erection of dwelling-houses, shops, buildings for religious, educational, scientific or public purposes, and generally deals with the equipment of a big building scheme, the concluding words of the section, "or any other works necessary or "proper in connection with the objects aforesaid," may be thought to be sufficiently wide to meet all needs of such a case, and the words "or other open spaces" might appear to be even sufficient to cover the maintenance of that "agricultural belt" dear to the promoters of Garden Cities.

Section 16 of the 1882 Act following Section 20 of the Settled Estates Act, 1877, authorised parts of the settled land to be appropriated for streets, &c., but only on or in connection with a sale or grant for building purposes or a building lease, and it had been held that such a procedure was justified only when such appropriation resulted in an immediate benefit to the settled land. The 60th section of the Law of Property Act, 1922, however, makes the

power exerciseable not only on or in connection with a sale, &c., but after such sale, &c., or on or after the development of the settled estate or any part thereof as a building estate or at any other reasonable time. This provision, together with Section 64, Sub-sections (2) and (3), authorising the use of capital money to finance a building lessee, should greatly aid in the development of settled land. But the latter clause would not appear to be sufficiently elastic to cover one of the most effective means of giving building lessees financial assistance, viz., by the purchase of reasonably improved ground rents.

These clauses seem open to the remark that they appear to cut across the view which has been taken by the Courts that no expenditure in the nature of a speculation, however profitable, ought to be sanctioned out of capital money.

With regard to the provision of buildings for religious purposes, in *Lord Gerrard's Settled Estate* case, amongst other works the erection of a private chapel in connection with the principal mansion-house was sought to be authorised, but it was held not to be covered, and it seems doubtful whether the words above referred to would cover such a case unless the chapel was put up for public use and to facilitate the development of the estate as a building estate.

From the specific improvements in the 1882 Act we pass to those authorised by Section XIII. of the Settled Land Act, 1890.

Sub-section (ii.).—"Additions to or alterations of buildings reasonably necessary to enable the same to be let."

As to this clause the Courts declined to apply it to additions or alterations for the convenience, amenity or æsthetic satisfaction of the occupying tenant for life, although such expenditure might be justified to make the property fit to let.

In *Stanford* v. *Roberts* (1901) a block of offices in the City was affected by dry-rot. The substitution of a wood block floor on concrete was allowed as an "alteration" under this sub-section.

Sub-sub-sections (iv.) and (v.) of the Law of Property Act do away with this qualification, "to enable the same to be "let," and both restoration and reconstruction, the result of dry-rot, and structural additions and alterations to buildings reasonably required, are brought within the powers, whether the buildings are intended to be let or not, or are already let.

Sub-section (iii.).

Authorises the erection of buildings in substitution of buildings within an urban sanitary district taken by a local or other public authority, or for buildings taken under compulsory powers, and does not seem to put a limit as to the place of erection, but no doubt this must be on part of the settled land. It is presumed that the section is not intended to limit the expenditure of the tenant for life if he wants to put up a better building, so long as he does not come upon capital money for the extra cost.

Sub-section (iv.).

The rebuilding of the principal mansion-house on the settled land comes in here for the first time under the Settled Land Acts, and with a limit of the expenditure to not more than one-half the annual rental of the settled land, *i.e.*, of the whole settled estate. Under the Limited Owners' Residences Acts, 1870-71, the building of a principal mansion-house had been permitted, and in that case the cost was allowed up to a sum not exceeding two years' *net* rental of the estate.

I do not quite understand the wide difference between these limits, but it is not as large as it looks, as in the first case it is a gross, and in the second a net rent. In the first case it has been decided (*Windham's Settled Estate*) that "annual rental is to be read literally, and means the total "amount of the rents payable by the tenant to the landlord "as appearing in the estates rent-book." Also that "if any "part is unlet, it must be treated as producing the rent "which an occupying tenant would reasonably pay for it." "No deduction can be made for mortgage interest, tithes, "land tax, drainage rates, or rent-charges." It was also

in that case decided that property tax might be deducted. In a subsequent case, however, this was not followed, and neither property tax nor super-tax were held to be proper deductions.

The provisions of the Housing of the Working Classes Act, the Town Planning Act, and the Agricultural Holdings Act, which relate to settled land, do not call for special comment.

This brings us to the other improvements authorised by Section 65 (1) of the Law of Property Act, 1922, not already referred to.

In addition to residential houses for agents, Sub-sub-section (ii.) provides for offices, workshops and other buildings of a permanent nature required in connection with the management or development of the settled land or any part thereof.

We now come to the consideration of the class of improvements to which may be applied the expression "wasting expenditure," and as to which the replacement of capital money is called for. Sub-sub-sections (vii.), (viii.) and (ix.) definitely contemplate, for the first time I think, expenditure upon works whose effective life may be, comparatively speaking, quite short. The Courts in making their orders considered, from time to time, how long an improvement was likely to last; for instance, in the case of *Ferguson* v. *Ferguson* substantial buildings were treated as having a limited life, and a period of fifty years was fixed by the Court for repayments, by analogy drawn from the period allowed for the repayment of building loans made by the Board of Public Works.

Sub-sub-sections (vii.), (viii.) and (ix.), which relate to heating and hydraulic works, to electric-light plant, to steam rollers, traction engines, motor lorries, and movable machinery for farming or other purposes, specifically require repayments "in manner hereafter provided"; I presume this intended to refer to Sub-sub-section (ii.) of Sub-section (4) of Section 65, viz., in not more than fifty half-yearly payments, the first payment being due six months after the completion of the improvement. It is not ex-

pressly stated that the instalments shall be equal instalments, and a case might be made out for a reduced payment in the years in which wear would result in necessary partial replacements or heavy maintenance charges; but whether equal or graduated instalments are contemplated, I conceive that the duty will be cast upon the surveyor of determining the reasonable life of improvements of this kind, and therefore the number of periodical payments to be made by way of replacement. Reports from time to time as to the life of agricultural machinery and other matters within these clauses and other such data might be forthcoming from our Branches.

The trustees, as custodians of capital money, appear to have a discretion as to requiring a part only of the expenditure to be repaid to them, and that discretion would appear to me to be properly exercised in excluding in whole or in part the structural portions of engine-houses and other more permanent sections of the improvements.

The wording of the clauses as to repayment seems to call for alteration: the opening words of Section 65 (1) make the improvements which follow improvements authorised by the Settled Land Act, 1882, and no distinction in this respect seems made between those contained in Sub-sub-sections (i.)— (iv.) and those in Sub-sub-sections (vii.), (viii.) and (ix.). If this is the case, then neither Sub-section (4), Sub-sub-section (ii.), nor Sub-sections (7) and (8) apply, because they only purport to deal with improvements *not* authorised by the Settled Land Acts, 1882 and 1890, or by the settlement: but, if this is the case, I fail to see where provision for the repayment of capital money expended "in "manner hereinafter provided" is to be found.

In Section 65 (1), Sub-sub-section (vii.), the objection made by the Courts to including items affecting æsthetic enjoyment which have to be paid for out of capital money, is maintained in the exclusion of decorative electric-light fittings. It would appear that electric fittings, if not decorative, and other than lamps, are included, but not gas fittings.

Section 66 of the Law of Property Act in its various sub-sections deals with the expenditure of money received

by way of damages or compensation for breach of any covenant contained in any lease which, though deemed capital money, may for a limited period be applied towards remedying the breach, and such application is to be deemed "an improvement" authorised by the Settled Land Act, 1882. The period, apart from special application to the Court, is twelve months from date of receipt. It seems to me that this is unduly short, and that it would increase the value of the section if it were enlarged to permit the expenditure of the money for like purposes on any part of the settled land, using it in fact as a dilapidations fund.

A final comment on the propriety of improvements as within the powers may be useful. Sometimes works which, by themselves, might not be deemed improvements payable out of capital, may be allowed if they form part of a larger improvement. Thus, though neither heating nor electric-light apparatus were regarded as properly within the powers of the Settled Land Acts, 1882-1890, I believe they were allowed for in this way in the *Kensington Settled Estate* and the *Dunham Massey Settled Estate.*

Having satisfied himself that the improvement comes within the powers of the tenant for life, and that it has been properly executed in whole or in part, the surveyor has to certify as to what sum is properly payable in respect thereof. What has he to guide him? Has he to consider whether the expenditure is prudent under all the circumstances? Whether the cost of the work exceeds the value it adds to the settled land, and if so, has he to restrict the amount of his certificate to such a figure as he considers is added to the capital value?

From the provisions contained in some of the statutes referred to, and from various cases, it would appear that though the actual cost would no doubt be the first and principal element to be taken into consideration, it would not be the only one, and that the questions of the prudence or extravagance of the expenditure, "whether it was such that "a prudent owner if he were the absolute owner would do," its general suitability and remunerative character, and its permanence, ought not to be overlooked by him.

Repairs.

Before passing to the functions of a surveyor as regards the letting or selling of settled land, the important subject of repairs calls for attention. What is the position of the tenant for life as to these? Roughly it seems to be as follows:—

As a mere tenant for life he is not liable to repair, and the question whether he is impeachable for waste or not does not appear material in this connection. He may, however, be made liable, either by some provision in the settlement or by a statutory obligation. For instance, a condition in the will that the tenant for life shall keep the property in repair renders him liable to repair, even though the want of repair existed at the time of the testator's death, and even to rebuild in case of fire. So also the tenant for life is liable, or may be made so, and rightly, for repairs in upkeep of works executed out of capital money by virtue of powers of the Improvement of Land Act, the Limited Owners' Residences Act, the Land Drainage Acts, and the Settled Land Acts; in many cases he is bound to insure against the risk of fire in specified amounts.

On the other hand, apart from special provisions in the settlement, he is not entitled to look to the estate for repairs, nor is he entitled to a charge on the estate if he does repairs. In several cases it was held that it made no difference if the repairs were necessitated by dry-rot, or, again, if the dilapidation existed at the date of the settlement; but the position may be altered by the settlement, as, for instance, where the principal mansion is intended to be enjoyed in specie and it could be established that without expenditure residence therein is impossible; also by legislation, or by the application of the legal principle of salvage. It has already been altered as to the consequences of dry-rot by the Law of Property Act, Section 65 (iv.).

The fact that in many cases the tenant for life was not liable to repair, and that it was certainly against the interest of the remainder-man that property should not be maintained, and the sense that it was unreasonable that

the tenant for life should get no contribution towards the expense of certain repairs really amounting to an improvement of the property, and almost to rebuilding, have led the Courts to differentiate between repairs ordinary, decorative, casual, fancy, current, and recurring, and those of a more permanent and exceptional character. The former tend to fall upon the tenant for life and the latter to be allowed in whole or in part out of capital. Where repairs are necessary for actual preservation, the Court allows out of capital. This, by reducing the capital reduces the income, and divides the burden between the tenant for life and remainder-man in fair proportions. The Courts have in other cases exercised a power of apportioning the cost so as to throw part of the capital outlay on the life tenant.

Thus, as illustrations, the cost of reinstating foundations which failed or of compliance with a dangerous structures notice, would be borne out of capital, as also would paving and sewering, unless the sums repayable to the sanitary authority by instalments represent both principal and interest, in which case the tenant for life would be recouped only the part representing the principal.

From the foregoing notes we may deduce some sort of principle for our guidance.

Ordinary repairs to a building requisite to keep the structure, whether as a whole or in its parts, in good tenantable order and condition should be charged against income, but where the structure or any parts of it are so worn out from whatever cause as to be practically unfit for the purposes for which they were erected, and when the whole or any of the parts require complete restoration, the cost should come out of capital; but, given this principle, it will tax the resources of a surveyor to judge, in some cases, where repairs cease and renewals commence. In this connection I would call attention to a useful reply by the late Mr. Thomas T. Wainwright (Past-President), *Professional Notes*, Vol. XV., p. 279, and to a short Paper by Mr. L. Burd (Fellow), in Vol. III. of *Professional Notes*, p. 163.

Before we can properly deal with various problems aris-

ing on the management of settled estates, I think we must consider the general bearing of Section 53 of the Settled Land Act, 1882, which provides that a tenant for life shall, in exercising any power under the Act, have regard to the interests of all parties entitled under the settlement, and shall in relation to the exercise thereof by him be deemed to be in the position and to have the duties and liabilities of a trustee to those parties.

Now it may be said that the consideration of such a question is rather outside the function of a surveyor, and clearly it is mainly a lawyer's matter, but I think in this, as in many another problem incident to property, a surveyor is obliged to concern himself with such matters to some extent, and the more he does concern himself with them, so long as he bears in mind he is only a layman, the better is he able to appreciate and follow the instructions he may receive from those whose special duty it is to advise him.

In this spirit I venture a few observations and give one or two extracts which seem to me suggestive and helpful. If in so doing I am in error, I hope some of our legal friends will, in their kindness of heart, correct me.

Lord Justice Lopes, in a case before him, is reported to have said: "The interpretation to be put on this section (53) "is that while it does not impose upon the tenant the right "of a trustee, it does, more or less, impose upon him the "responsibilities of a trustee."

In the last edition of *Stephens' Commentaries* the learned editor says: "In spite of the express words of the Act, how-"ever, it is probable that the Legislature did not intend to "apply to a tenant for life even in the exercise of his "settled powers all the strict doctrines applicable to a "trustee properly so called, *e.g.*, the rule which prohibits "a trustee to take any advantage by the exercise of his "powers as trustee. In fact, what is intended is that the "tenant for life shall act *bonâ fide* and with due care."

Then I find that in Section 42 of the Conveyancing and Law of Property Act, 1881, there are words which require trustees "generally to deal with the land in proper and due

" course of management," and in a judgment of Lord Eldon in a case long before the Settled Land Act, 1882, and to be again referred to, I find the words a "fair rational and " husbandlike administration of the estate," and that the tenant for life is " bound to a fair and rational treatment of " the estate giving a reasonable attention to the interests of " those who are to follow him."

These passages taken together, and bearing in mind that the tenant for life is himself one of the " all parties entitled " whose interest is to be regarded, seem to give good guidance in working out the provisions of the Act.

Leasing.

We may now therefore pass to the duties of a surveyor relative to the incidents of management of settled land, and give the first attention to leasing. Prior to 1856 a tenant for life could lease only for his lifetime, unless specially authorised, and up to the Settled Land Act of 1882 a 21 years' term was the maximum. This Act permitted a lease for 21 years, a mining lease for 60 years, and a building lease for 99 years. These terms are now as from 1925 extended to 50 years, 100 years, and 999 years respectively as maxima. It would be interesting to know upon what experience this first extension was determined. I hardly think a case could be made out for the granting of ordinary leases for so long as 50 years; but probably the extension will be useful in justifying the granting of leases for, say, 30 or 40 years where the expenditure of a lessee is substantial but hardly adequate or sufficiently general to justify a " building " lease term.

The rent is to be the " best " rent that can reasonably be obtained, regard being had to any fine or expenditure, and also regard being had to the circumstances in each particular case, and it was pointed out in *Doe* v. *Radcliffe* that " in the " choice of a tenant there are many things to be regarded " besides the mere amount of the rent offered." This stipulation as to the best rent has, on occasion, made the enforcement of a covenant for the renewal of a lease unenforceable. For instance, the erection of a large gas

purifying-house upon leased land enhanced the value of the land so much that when the time came for granting the renewal the rent was no longer the best. I fancy, however, the difficulty arose before the passing of the 1882 Act, as Sub-section (iii.) of Section 12 seems to meet the case.

In the House of Lord's judgment in the old case of *Montgomery* v. *Charteris*, Lord Eldon, dealing with "the best "rent which can be got at the time," or, as the Scotch have it, "at the just avail for the time," said: "There is but one "criterion which our Courts always attend to as a leading "criterion in discussing the question whether the best rent "has been got or not, that is, whether the person who makes "the lease has got for others as much as he has got for "himself. If he has got more for himself than for others, "that is, decisive evidence against him, the Court must see "that there is reasonable care and diligence exerted to get "such rent as, care and diligence being exerted, circum-"stances mark out as the rent likely to be produced."

It should also be added that "best" rent is a relative term in the case of a lease for dwellings for the working classes where the best rent, having regard to the purpose, is to be allowed, "notwithstanding that a higher rent might "have been obtained if the land were leased for another "purpose." So also in future leases for the purpose of assisting development, improvement or general benefit of settled land can be at less than the best rent, as also for religious buildings, and buildings for public and other purposes, as set forth in Section 41 of the Law of Property Act, and in Section 42, for forestry.

The lease must be a *bonâ fide* lease. Thus a tenant for life may lease to his wife (*Silbey* v. *Rust*), but not so as to give her a benefit at the expense, or to the serious injury of, those who come after (*Sutherland Settled Estate* case).

The considerations for the granting of a building lease include "having improved or repaired, or agreeing to im-"prove or repair" (Settled Land Act, 1882, Section 8 (i.)), and "building purposes" include (in addition to the erecting and improving of and the adding to) the repairing of build-

ings, and a building lease is a lease for any building purposes; but ordinary repairs, or "such repairs as a "landlord is usually expected to do," are nevertheless not, it would appear, to be deemed to be a sufficient consideration for a building lease (*re Daniel*). In that case the proposed lease was for 30 years, and the consideration, the expenditure of £200 at least in rebuilding chimney-stacks, and substantial repairs to roof and framework of the building. On the other hand, in the case of the *Earl of Eliesmere's Settled Estate*, it was held that a lease of a public-house granted in consideration of a payment of £8,700, reserving a chief-rent of £40, and a covenant, *inter alia*, by the grantee within two years to expend £400 in substantial improvements, was duly made "for building purposes."

The question often arises to what extent does a substantial expenditure upon or rebuilding a part only of the premises justify a "building" term? I suppose the answer is that it justifies the shortest time in which (1) the lessee can get back his money with interest and some remuneration for such risk as he may run in his expenditure, and (2) such a term as will bear a fair relation to the length of term which would be properly granted if the *whole* were to be rebuilt.

It must be borne in mind also that expenditure already made will not justify a lease at less than the best rent, as the words "in consideration" import a legal consideration (*re Chawner*).

One further matter, and a small one, in connection with building leases. It has been decided, in the case of *Maryon-Wilson Settled Estates* (1900), that the agents' charge for letting land on building lease is payable out of capital. I call attention to this because, if I am rightly informed, there have been cases in which the Board of Agriculture or their predecessors have required these to be paid out of income, which is the more unreasonable because the loss of income entailed by the allowance of a peppercorn or reduced rents falls upon the tenant for life. Perhaps one of these days it may be seen to be just that this loss should not fall wholly upon the tenant for life.

Lease with a Fine.—No lease, in consideration of a fine, could be granted under the Settled Estates Act, but the Settled Land Act, 1882, authorised such a lease. For some time after that date, however, it was not considered clear that "the mere passing reference" to a fine in Section 7 was sufficient to authorise such a proceeding; and if it did, it was suggested that Section 34 applied to the fine, and might deprive the lessor of the full advantage of it. The Act of 1884, Section 4, definitely established the practice, and made the fine capital money under the Act, the income from the investment of which the tenant for life was entitled to enjoy, or, as the judge in the case of *re Wix* phrased it, "capitalisation but no accumulation."

No doubt the taking of fines without the capitalisation thereof had impoverished many an estate, and is, of course, indefeasible on settled land; but I should imagine the facts revealed by the *Charteris* case, previously referred to, could hardly be paralleled. There the income of an estate, at one time bringing in over £11,000 per annum, had become reduced by the repeated acceptance of "*grassums*," as they were called, to less than one-third, and in some instances, if my memory serves me, three fines had been taken within a comparatively brief period in respect of one property.

The great argument for a system of leasing in consideration of a fine is that part of the future income is already in hand for investment, and the fact that the lease is held at less than a normal rent constitutes an added security for the payment of that rent and the fulfilment of the covenants throughout the term, and this was, no doubt, its recommendation for property in trust; but the spirit of the times is against it, I think, at all events as a basis of negotiation to be insisted upon between landlord and tenant. The method of dealing with fines under *perpetually renewable leases* (which are abolished by the Law of Property Act, Part VII., and the Fifteenth Schedule), and particularly the arithmetic of these sections, has been already criticised in our Institution, and I see that it is being criticised in a conveyancing Paper.

The Fifteenth Schedule also deals with the power of

granting *leases for lives*, which will take effect as a power to grant a lease for a term not exceeding 90 years, determinable as therein set forth, and Section 30 of the Tenth Schedule should be read in connection therewith.

I must leave the subject of *mining leases* to mining surveyors, with the remark that the Law of Property Act does not appear to vary the powers or practice materially under the Settled Land Act of 1882; the right conferred, however, upon the tenant for life to accept a lease of any land, includes expressly that of any mines and minerals, or of any easement, right or privilege convenient to be held or worked with settled land, Section 38 (i.)—(v.), and that Section 36 (6) facilitates arrangements relative to surface apart from minerals, or minerals apart from surface.

Leases with Options.—Hitherto a building lease with an option of purchase was the only power of this kind under the Settled Land Acts, but Section 4 of the Law of Property Act, 1922, extends this. Options can in future be granted under that Act to take a lease of the settled land or any part thereof, and of any easement, right, or privilege, &c., such option being exerciseable within an agreed number of years, not exceeding ten, the rent being determined or apportioned in a variety of ways (Section 44).

Variations of Leases.—With the consent in writing of the trustees, the tenant for life may in future also vary leases and covenants, and apportion rents as set forth in Section 45.

May I put a question to our legal friends as to reversionary leases? In the Settled Land Act, 1882, the limit of *12 months* from the date of the lease was fixed by Section 7 within which a lease was to take effect in possession, but Section 42, Sub-section (5), of the Law of Property Act appears to contemplate a reversionary lease for a term of years absolute taking effect after an existing lease having not more than *7 years* to run at the date of the new lease, and in (12), "Definitions," Section 188 of the Law of Property Act appears to refer to a term created after the passing of the Act as taking effect in possession within *21 years* after the creation thereof. What is the intention as from 1925 with regard to settled land?

Surrenders.

Most closely associated with the granting of leases is the subject of surrenders, the acceptance of which is authorised by Section 13 (1882 Act). A lease may be surrendered for the purpose of getting rid of liability, in which case it would be accompanied by a payment as consideration. At common law this would belong to the life tenant, but not under the Settled Land Acts. In view of Section 53 the money is payable in instalments to the persons for the time being entitled to rent during the remainder of the term surrendered.

To show how strictly the Court has sometimes treated a payment made on surrender, the case of *Re Guthrie Settled Estate* (1902) may be noted. In that case building lessees, having found difficulty in carrying out their obligation, a contract was entered into, subject to the leave of the Court, whereby the tenant for life agreed to grant to another building lessee a lease for the remainder of the term of the original building lease at the same rent after a peppercorn period of $1\frac{1}{2}$ years; the old tenants agreed to pay the amount of $1\frac{1}{2}$ year's rent in advance to be applied as income, in order to make up to the tenant for life for the loss during a second peppercorn period. The judge actually varied the contract by directing the $1\frac{1}{2}$ year's rent to be treated as capital, and approved the contract as so altered, a decision which no doubt was good law but very indifferent justice.

The class of surrenders, however, which concern surveyors most often are surrenders made for the purpose of the granting of fresh leases. These were, generally speaking, impracticable before the Settled Land Act of 1882, because this Act for the first time authorised the taking into consideration of the value of the tenant's interest in the lease he surrendered. This can now be done, and it may be pointed out that a surrender for the purpose of granting the lessee a new lease can be accepted, even though there may be an unexpired underlease granted by the surrendering lessee.

Nothing is said as to the basis upon which the value of the tenant's interest is to be arrived at, whether it is the

value to the tenant or the value in the market, and I think there is a considerable diversity of practice as to this.

This principle of the propriety of the acceptance of surrenders, and the granting of new leases, is one which is of great importance in the management of estates, but has been objected to, because by it the tenant for life gets an additional income and the remainder-man a less income in reversion, and it has been said that it conflicts with the provision of Section 53 and the principle embodied in Section 34.

But the answer is twofold, I think; first, that it was clearly the intention of the Legislature that the tenant for life should exercise this power, and derive a legitimate advantage from so doing; and, second, that the power to do so is called for in the interest of the property itself. I think the fact that the intention is so clear is the explanation of what I believe is a fact, viz., that 34 years elapsed after the Act was passed, before the question was brought for decision in the case of *Re Wix*, *Hardy* v. *Lemon*, in which case it was sought to get the Court to say that the additional rent should be taken away from the tenant for life and accumulated. It was fortunate that the question was raised upon a lease, the propriety of which could not be questioned, because it had already been definitely sanctioned by the Court (by another judge), and was therefore clearly a *bonâ fide* lease. The circumstances were very usual. A bank, holding a lease of which 20 years were unexpired, desirous of rebuilding, surrendered their lease and obtained a 99 years' lease at a much higher rent in consideration of an expenditure of £25,000. I refer to it specially for the purpose of quoting some passages in the judgment. The judge said: "On the whole I think there are sound reasons for holding "that in every case in which a lease such as that now under "review is not open to question on the ground of impropriety "or otherwise, the Act intends it should be operative"; and he had previously pointed out that to do what was contended for "would in the majority of cases deprive the "tenant for life in possession of all advantage from the "transaction, and would remove all real incentive to the

"exercise of a power which it might be greatly to the advan-
"tage of the settled estate should not be in abeyance."

The importance of the power is illustrated not only by this case but in cases where by reason of the shortness of the remaining terms no lessees have any sufficient interest in improving the property they hold. Take the case of a residential estate in a district now largely inhabited by persons not able to afford a whole house. The only expedient to be adopted to prevent degeneration into tenement property is the turning of the houses into flats. In such a case the acceptance of surrenders and the granting of reasonable terms in consideration of the necessary expenditure in conversion is of essential value to the property and all persons interested therein.

Sales.

I have left myself no time to refer to these at any length, and must content myself with a preliminary note upon Section 34 of the Settled Land Act, 1882, and the general statement that extended and varied powers will in the future be available, for particulars of which reference must be made to the Law of Property Act itself.

Those of you who are familiar with the 1882 Act will remember that Section 34 provides that where capital money arising under the Act (1882) is purchase money paid in respect of a lease for years, or life, or years determinable on life, or in respect of any other estate or interest in land less than the fee simple, or in respect of a reversion dependent on any such lease, estate, or interest, the trustees of the settlement or the Court, as the case may be, and in the case of the Court, on the application of any party interested in that money, *may*, notwithstanding anything in the Act, require or cause the same to be laid out, invested, accumulated, and paid in such manner as in the judgment of the trustees or of the Court, as the case may be, will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest or reversion in respect whereof the money was paid, or as near thereto, as

the case may be. It is to be observed that the word "may" is used, and that, therefore, "the words of the section are "permissive and discretionary words rather than imperative," to quote Mr. Justice Sargant's words in a recent case, and Section 42 expressly relieves trustees of any liability for not making any such application as they might make.

I have been told, and I should like to know whether the statement is correct, that applications to the Court and requisitions by trustees under this section are rare in the case of sales in the ordinary way of terms less than fee simple, and I judge from the report in the case above referred to that even when before the Court the section will not be interpreted in such a way as to deprive the tenant for life of the benefit of any special direction in a settlement such as a right to have capital sunk in the purchase and surrender of short leases.

At the same time it has to be borne in mind that the clause is capable of application at the instance of any interested party taking strict views, and also that it is on this footing that moneys arising under the Lands Clauses Acts, &c., are dealt with.

It is possible that in the future there may be more general recognition of the propriety of allowing a tenant for life to derive additional income from interest upon the proceeds of any such sales if made *bonâ fide* in the course of good and reasonable estate management and not in pursuance of a *policy* of forestalling the rents and profits of the settled land, and that it will be thought that, by the falling in of reversions, and the consequent turning of ground rents into rack-rents, the normal increase in value arising from development, and otherwise the future financial position of "remainder-men," is probably so adequately assured as to justify somewhat greater attention than has sometimes been paid being given to the needs—emphasised particularly at the present time—of tenants for life.

A step in that direction seems indicated in the recognition in the Estates Committee's most suggestive and valuable Report of the Oxford and Cambridge Royal Commission of the fact that "273 (3) The practice of requiring that the

"whole of the surplus income derived from the capital "realised from the sale of reversions should accumulate till "the expiration of the term, thus depriving the vendor of "any immediate increase in income," has created difficulty.

The Report goes on to say that at the request of the Ministry of Agriculture and Fisheries "the Committee con- "sidered the accumulation of surplus income" under this section (34), "which was interpreted to require the accumu- "lation of all surplus income, in accordance with the practice "of the Courts."

And the Committee report that the Ministry has accepted their suggestion that only so much of the surplus interest on the money derived from the sale of reversions as will, with a liberal margin, replace the estimated capital value at the end of the term should be appropriated for accumulation, the remaining surplus interest being released for immediate increase of income.

I hope some member of the Committee will feel at liberty to tell us whether in the cases of sales of reversions they had in mind there were many in which the income from the invested price would provide for the estimated capital value, the liberal margin and the increase of income, and from what class of property such a result had been secured, and was to be anticipated.

The power enabling the tenant for life to sell the settled land has often been resisted, but the Courts have upheld this power to sell at his discretion as against others interested in reversion, holding, amongst other things, that the fact that the tenant for life would benefit by the sale was no sufficient reason for interfering with his discretion; that the interests of persons from whose industrial occupation the rents and profits were derived had also to be regarded, and that considerations of public interest and the well-being of the settled land are to be regarded rather than the interest of individuals.

With this I must leave the subject for your consideration, with many apologies for my partial and inadequate treatment thereof; in the hope, also, that in any supplementary Paper which may be forthcoming before the

1st January, 1925, dealing mainly with the copyhold sections of the Act, some member qualified by large and varied experience may complete my unfinished task, and deal not only with the facilities provided by the Acts, and the recent development thereof, but also with the various considerations which have to be borne in mind in advising in favour of or against sales, exchanges, or other dealings with settled land.

While it may be true that the Law of Property Act embodies in relation to settled land what is already otherwise provided in the best drawn settlements, its perusal brings home to a surveyor that he has yet much to learn in order that he may worthily exercise his functions and duly meet the responsibilities of professional work in the future.

SCHEDULE OF AUTHORISED IMPROVEMENTS.

	By The Settled Land Act, 1882.
	Section 25.
See Land Drainage Act, 1845. See Improvement of Land Act, 1864. *Section* 9 (1)	(1) Drainage, including the straightening, widening, or deepening of drains, streams, and watercourses ;
Section 9 (2) ...	(2) Irrigation ; warping ;
See Public Health Act, 1875. See Improvement of Land Act, 1864. *Section* 9 (3) ...	(3) Drains, pipes, and machinery for supply and distribution of sewage as manure ;
	(4) Embanking or weiring from a river or lake, or from the sea, or tidal water;
	(5) Groynes ; sea walls ; defences against water ;

SCHEDULE OF AUTHORISED IMPROVEMENTS—(*continued*).

See IMPROVEMENT OF LAND ACT, 1864—(*continued*).	By THE SETTLED LAND ACT, 1882—(*continued*).	
Section 9 (4) ...	(6) Inclosing; straightening of fences; re-division of fields;	
Section 9 (5) ...	(7) Reclamation; dry warping;	
Section 9 (6) ...	(8) Farm roads; private roads; roads or streets in villages or towns;	
Section 9 (7) ...	(9) Clearing; trenching; planting;	
Section 9 (8) ...	(10) Cottages for labourers, farm-servants and artisans employed on the settled land or not;	See also HOUSING OF THE WORKING CLASSES ACT, 1890, *Section* 74 (*b*), whereby this section (25) (10) is made to include any dwellings available for the working classes, the building of which in the opinion of the Court is not injurious to the estate. See also the SETTLED LAND ACT, 1890, *Section* 18; also HOUSING AND TOWN PLANNING ACT, 1909, *Section* 7.
	(11) Farmhouses, offices and out-buildings for farm purposes;	See LAW OF PROPERTY ACT, 1922. *Section* 65, *Sub-Section* (1). (i.) Residential houses for land or mineral agents, managers, clerks, bailiffs, woodmen, gamekeepers, and other persons employed on the settled land or in connection with the management or development thereof; (ii.) Any offices, workshops, and other buildings of a permanent nature or development of the settled land or any part thereof.
Section 9 (9): "Planting for shelter."		

SCHEDULE OF AUTHORISED IMPROVEMENTS—(*continued*).

See IMPROVEMENT OF LAND ACT, 1864—(*continued*).	By THE SETTLED LAND ACT, 1882—(*continued*).	
Section 9 (10)...	(12) Saw-mills, scutch-mills, and other mills, water-wheels, engine-houses, and kilns, which will increase the value of the settled land for agricultural purposes or as woodland or otherwise ;	
See LIMITED OWNERS' RESERVOIR & WATER SUPPLY ACT, 1877.	(13) Reservoirs, tanks, conduits, watercourses, pipes, well-ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other domestic or other consumption ;	LAW OF PROPERTY ACT, 1922. *Section* 65 (1). (vi.) Boring for water and other preliminary works in connection therewith.
See SETTLED LAND ACT, 1890. *Section* (13) (ii.) : "Bridges."	(15) Jetties, piers, and landing places on rivers, lakes, the sea, or tidal waters for facilitating transport of persons, and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes.	
	(16) Markets and market-places.	
	(17) Streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connection with the conversion of land into building land ;	(iii.) The development of the settled land, or any part thereof, as a building estate, and the erection, building, making, and laying out for that purpose, of dwelling-houses, shops, buildings, for religious, educational, literary, scientific, or public purposes, market places, market houses, places of amusement and entertainment, parks, squares, gardens, grounds for recreation, exercise, or games, or other open spaces, roads, streets, paths, sewers, drains, gasworks, electric light or power works, or any other works necessary or proper in connection with the objects aforesaid.
	(18) Sewers, drains, watercourses, pipe-making, fencing, paving, brickmaking, tile-making, and other works necessary or proper in connection with any of the objects aforesaid ;	

SCHEDULE OF AUTHORISED IMPROVEMENTS—(*continued*).

	BY THE SETTLED LAND ACT, 1882—(*continued*).	LAW OF PROPERTY ACT, 1922—(*continued*).
	(19) Trial pits for mines, and other preliminary works necessary or proper in connection with development of mines ;	
	(20) Reconstruction, enlargement, or improvement of any of those works.	
	BY THE SETTLED LAND ACT, 1890.	
	Section 13.	(iv.) Restoration or reconstruction of buildings damaged by dry rot ;
	(ii.) Making any additions or alterations in buildings reasonably necessary or proper to enable the same to be let ;	(v.) Structural additions and alterations to buildings reasonably required, whether the buildings are intended to be let, or not, or are already let.
	(iii.) Erection of buildings in substitution for buildings within an urban sanitary district taken under compulsory powers, but so that no more money be expended than the amount received for the buildings taken and the site thereof ;	
See THE LIMITED OWNERS' RESIDENCES ACT (1870) AMENDMENT ACT, 1871. *Section* 3, which provides for the erection, improvement, addition or conversion of a principal mansion-house and appurtenances.	(iv.) The rebuilding of the principal mansion-house on the settled land : Provided that the sum to be applied under this sub-section shall not exceed one-half of the annual rental of the settled land.	

SCHEDULE OF AUTHORISED IMPROVEMENTS—(*continued*).

HOUSING OF THE WORKING CLASSES ACT, 1890.

Section 74 (*a*) (*b*). The erection of any dwellings available for the working classes, the building of which, in the opinion of the Court, is not injurious to the estate.

HOUSING AND TOWN PLANNING ACT, 1909.

Section 7 (1) ... The provision of dwellings available for the working classes either by means of building new buildings, or by means of reconstruction, enlargement or improvement of existing buildings, so as to make them available for the purpose, if that provision of dwellings is, in the opinion of the Court, not injurious to the estate, or is agreed to by the tenant for life and the trustees of the settlement.

Section 7 (2) ... The provision by the tenant for life at his own expense of dwellings available for the working classes on any settled land, shall not be deemed to be an injury to any interest in reversion or remainder on that land, provided that the powers conferred upon the tenant for life by this sub-section shall not be exercised by him without the previous approval, in writing, of the trustees of the settlement.

AGRICULTURAL HOLDINGS ACT, 1908.

See *Section* 20, *Sub-sections* (i.) and (ii.).

Capital money arising under the Settled Land Acts, 1882-1890, may be applied in payment of the cost of the improvements enumerated in Parts I. and II. of the First Schedule.

LAW OF PROPERTY ACT, 1922.

Section 65 (1) (vii.) Subject to provision for the repayment of the capital money expended being made in manner hereinafter provided heating, hydraulic or electric-power apparatus for buildings and engines, pumps, lifts, rams, boilers, flues, and other works required or used in connection therewith;

(viii.) Subject to provision for the repayment of the capital money expended being made in manner hereinafter provided, engine-houses, engines, gasometers, dynamos, accumulators, cables, pipes, wiring, switchboards, plant and other works required for the installation of electric, gas, or other artificial light, in connection with any principal mansion-house, or other house or buildings; but shall not include electric lamps, gas fittings, or decorative fittings required in any such house or building;

(ix.) Subject to provision for the repayment of the capital money expended being made in manner hereafter provided, steam rollers, traction engines, motor lorries and movable machinery for farming or other purposes.

AT

THE ORDINARY GENERAL MEETING

Held on Monday, May 7th, 1923,

A DISCUSSION took place on a Paper entitled

SOME FUNCTIONS OF A SURVEYOR UNDER THE SETTLED LAND ACTS, 1882-1890, AND PART II. OF THE LAW OF PROPERTY ACT, 1922.

By C. Herbert Bedells (Member of Council).

J. McCLARE CLARK (President) in the Chair.

Mr. E. S. COX (Member of Council) said it afforded him the greatest possible pleasure to propose a vote of thanks to the author for his able and interesting Paper, which would be most useful to all surveyors who had anything to do with matters connected with the Settled Land Acts. As he believed there were no text-books on the subjects of the Settled Land Acts, the Paper would make an excellent text-book in itself, and would be a valuable addition to the *Transactions* of The Institution. He was sure all the members agreed they were much indebted to the author for the great care he had taken in the preparation of his Paper and the clear statement he had made with regard to the effect of the new Law of Property Act on the Settled Land Acts. The author had stated that he had dealt only with the fringe of the subject, so that the members might hope before long to receive another instalment from him dealing with the problems that had to be faced.

Personally he was connected with country estates, and from that point of view he knew that the hard-hit tenant for life had had a bad time of it. He was pleased to say that under the new Act the tenant for life would, he believed, be able to get more capital money to spend on his estate.

One of the great advantages which the tenant for life would derive was that he would be able to build a house for the agent, which personally he thought was only a fair and a proper thing to do.

With reference to the question raised by the author with regard to the surveyor employed by the tenant for life to prepare a scheme and carry out the work, he did not think it was at all advisable that the same surveyor should be employed to certify the amount of capital money to be paid to the tenant for life by the trustees. It was not desirable that a surveyor should certify that his own work was satisfactory. After 1st January, 1925, no scheme would be required, not even with the consent of the trustees. The trustees would then have to appoint a surveyor independently of the tenant for life to see that the work was efficiently carried out, and that the proper amount of money was paid over to the tenant for life for what he had done.

Section 17 of the Schedule went far beyond what it was generally considered a trustee should do with capital money. To allow capital money to be spent in the development of a building estate was a proceeding of a most speculative character, but under the new Act it would be possible to do that more easily than had been the case in the past. He supposed the provision was really put in in order that more houses might be built.

How far capital money could be used for the repair of mansions was a difficult matter. The old stately homes of England were a great burden on many estates, and at the present time it was most difficult to get any money out of capital to be spent on their repair. He hoped that after 1925 it would be possible to get more money for that purpose, because the tenants for life could not afford nowadays to pay for the repairs of the very large mansions that existed. While, he supposed, every case differed, in his opinion the money ought to be spent out of capital if possible. He had a special case of his own at the present time in which there was a very large house indeed, built of limestone, the same stone as York Minster was built of. The stone had perished badly, and a tremendous amount of

cutting out and replacing the stone had to be done, the cost of which, in his opinion, ought to come out of capital. The operation was a most expensive one which necessitated the erection of scaffolding. At the present time he was employing steeplejacks to do the work, and he found that the work was done just as well by them and far cheaper than by any other method, although steeplejacks were very expensive, as he was paying two steeplejacks £5 a day, and supplying labourer and materials. He believed it would be necessary to investigate every case as each case differed from others.

It afforded him the greatest possible pleasure to propose a hearty vote of thanks to the author for his most interesting and instructive Paper.

Mr. A. C. Driver (Fellow) said it afforded him very considerable pleasure to second the vote of thanks, because the author was not only a member of the Council of The Institution, but personally he knew him well as a fellow-committeeman of the North-West London Branch, and he could assure the members that the author was looked upon as a great tower of strength by that Branch.

With regard to the Paper, he believed it was true to say that the greater part of the work of surveyors in connection with the management of estates came within the terms of the Settled Land Acts, but all surveyors found that there were considerable variations. The settlement was not in all circumstances a fixed one. For instance, an estate might be worked under a marriage settlement. He had a case in mind in which it was usual for the tenant for life under his settlement always to grant 30 years' leases. As the author had pointed out, under the Act there was to be an extension of the term under which ordinary leases of 21 years might be extended to 50 years. He had always found on the particular estate to which he referred that the fact that one's client was in a position to grant a 30 years' lease was greatly appreciated by the lessees.

He entirely disagreed with Mr. Cox's view that it was not advisable that the same surveyor should be employed to certify the amount of capital money which might be spent

upon a scheme. He sat opposite to Mr. Cox at the recent Institution Dinner, and although they were in perfect accord on that occasion, he entirely differed from him on the present occasion. He could not but think that an outside surveyor called upon to certify works had not a fair opportunity of dealing with the matter, apart from the fact that a really sound scheme might not be produced. Surely the surveyor who knew the work that had been carried out was the man who prepared the specification and supervised the work throughout. He suggested that such a man should be the certifying surveyor, and that he might act not only for the tenant for life but also for the trustees of the settlement. Such a man, in his opinion, should generally be approved by the trustees, at least there must be a sound reason given for disapproval.

He found that the reference to drainage on page 245 of the Paper applied only so far as concerned house drainage, but some interesting cases occurred in regard to the drainage of farms and the production of milk. As the members were aware, the Act comes into force on the 1st January, 1925. What was the position of a tenant for life and the owner of a farm let upon lease where, in order that the farmer might receive his certificate from the local authority for the purpose of retailing milk, the whole sanitary system of the farm had to be renewed? In the case he had in mind the farm was let upon a lease; the tenant was not doing particularly well, and he was not in a position to pay interest on the capital expenditure required. Was the tenant for life called upon to maintain that farm in order to maintain the existing tenant's livelihood? It was not an important point, but it was one upon which he would like to have the views of members, because it raised the question of waste. In the event of the tenant for life not making the capital expenditure, obviously the tenant of the farm—it was a dairy farm—could not carry on, and consequently the farm would become empty. Was it essential that the tenant for life should incur the outlay without seemingly any possibility of increasing the rent, as there was still an unexpired term of the lease?

He was extremely glad to hear from the author that the land agent's house could be included in the capital expenditure. In cases in which estates had been broken up and sold, he was aware of many cases in which the land agent's house had not been the most saleable lot, and the members were probably aware of similar instances.

With regard to the question of waste expenditure referred to on page 250, he had in mind the case of old houses on an estate which for various reasons, perhaps dry-rot, had had to be converted for other users. In the case, for instance, of a somewhat big house in an urban area, which was perhaps rather large for the neighbourhood and had been rendered uninhabitable so far as its original purpose was concerned, the owner naturally consulted his surveyor, and a decision was arrived at that it should be converted into flats. Was the whole of the capital expenditure required for the conversion of that house into flats one that might be properly charged to capital? He would like to know the author's view on that matter, as it was a point which at the present time was exercising the minds of many agents who had to advise owners on that particular point.

Another matter in connection with repairs to which he wished to refer was the question of the dilapidation consideration. On a settled estate in an urban area it was frequently the case that a lease fell in. A dilapidation consideration was paid after the lease was determined, and became floating capital. Assuming that a new lease was granted for a term of 21 or 30 years at an increased rent on the original rent, but at a rent which did not represent the full rental value, for the reason that the lessor allowed the lessee to pay a lower figure than the full rental value by reason of his undertaking to renew the premises as required, to modernise and to redecorate at his own expense, what was the position in regard to the capital sum for dilapidations which was paid at the determination of the lease? He would like to know whether that money could pass to the tenant for life, or whether it became capital of the estate.

As his allotted time had expired, he could only say, in

conclusion, that he was extremely pleased to have the opportunity of seconding the vote of thanks to the author for his valuable Paper, which he was perfectly sure would produce an equally valuable discussion, because, as he had already stated, it brought to the notice of members in a particularly clear and useful manner every point that they had to deal with in connection with settled estates.

Mr. J. I. Davidson (Vice-President) said he rose with some trepidation to support the vote of thanks, not because he did not cordially desire to do so, but because the author had displayed such an intimate knowledge of law and had such a fluent method of expressing it that he felt quite unfitted to follow him into the various sections and subsections of the Acts of Parliament through which he had tripped so lightly and gracefully.

His (Mr. Davidson's) experience in connection with improvement charges was really the only one that was relevant to the question at issue. In Scotland the practice had been largely to charge improvements on what were called "entailed "estates," which were practically the same as estates under the Land Settlement Acts, and where the owner in occupation was really, in a sense, a tenant for life. He did not know that the Settled Land Acts applied in that particular case. He rather thought that the Improvement Act of 1864 and the various special Acts of different improvement companies, under which they were empowered to lend money for improvement purposes, regulated the cases. The expenditure in the instances under review was, in fact, always undertaken either under statutory control or under the control of the courts. At one time he happened to be an inspector of estates improvements under the Land Commissioners, and he had had many improvement charges to deal with under remits from the courts. Some of these cases had been particularly interesting, and others were less so. The general lines upon which he proceeded in such matters were that improvements were chargeable if they were permanent in character, suitable for the subject and likely to increase its annual value, or, at any rate, to maintain the annual value

which otherwise would not be maintained but for the execution of the improvement. That was the guiding principle which had generally dictated the results of the remits and the reports with which he had to do.

As he had said, some of the cases had been very interesting ones. He recalled one in particular in which the tenant for life—the heir of entail in possession, as he was called in Scotland—lived only five years after entering into possession. But during that short period he spent £50,000 on improvement expenditure, and he bequeathed a right to charge it to his widow, which right she exercised after his death. He was appointed by the court to report on the outlay and to say how much of it was chargeable. He found that no less than £20,000 out of the £50,000 had been expended not in creating small holdings, but in restoring, improving and making tenantable the equipment of small holdings which had been allowed to get into dilapidation, and a great many of which were not occupied by small-holders, but had been merged into larger farms. That expenditure was contested mainly on the ground that it was uneconomic. On the occasion of the Address by the President he (Mr. Davidson) had something to say on the subject of economic small holdings. If it had been strictly put to him whether or not the expenditure of the £20,000 to which he referred, or the proportion of it which he thought chargeable, would have been productive of actual revenue to justify the outlay, he would have had some difficulty in so deciding, but on the general ground that a fair proportion of small holdings on such a very large estate was a prudent part of estate management, providing, as it did, labourers for the larger farms, and a ladder for the labourer to rise to be a small-holder, and eventually a farmer, he reported favourably on the charge, notwithstanding the strenuous opposition of the next heir. He was glad to say that the court approved that view, and that the next heir became quite reconciled to it and did not carry the matter any further. He thought he had explained generally the lines on which he proceeded.

The reference to electric lighting in the Paper had

interested him particularly. He did not think in Scotland they had drawn the line in regard to the exclusion of the inside equipment, the lamps, arcs and other expenditure on electric lighting. In point of fact he had a case not long ago in which no less than £5,000 was expended in lighting a mansion-house and its offices on a large and valuable property in the south of Scotland, and that amount, with the deduction of certain items which he thought were extravagant, was allowed. He was particularly interested to see the exclusion to which the author referred under the recent Act of Parliament. He did not know whether that was to apply to Scotland or not, but he was glad to have his attention drawn to it. His connection with the urban part of the subject would not warrant him in making any observations thereon, and he could, therefore, only say once again in conclusion that he had much appreciated the Paper, and that he desired to join most cordially in supporting the vote of thanks, which had been moved and seconded, to the author.

Mr. G. H. Bower (Visitor) said the valuable discussion which had already taken place on the author's most interesting Paper had been entirely from the surveyor's point of view. He proposed, with the permission of the President, to make a few remarks from the solicitor's point of view, as he had been engaged for many years in the administration of settled estates. Before doing so he wished to congratulate the author on his conception of the duties of a surveyor so far as legal knowledge was concerned. The author laid down the very sound principle that, from the legal point of view, the surveyor must remember that he was a layman. He desired to take the opportunity of saying, so far as he himself was concerned—and he hoped also for his professional brethren—that, in dealing with settled estate matters. solicitors, he hoped, remembered that they were not surveyors. It was a great temptation to a solicitor to enter into technical and interesting details instead of confining himself to the points that concerned him, and leaving surveying points to the surveyor.

He was much struck by what he considered the absolute soundness of the author's definition of the lines upon which the surveyor and all parties should work in administering settled estates, particularly with regard to the important question of improvements. The present times were hard indeed upon the tenant for life, who had to pay so many outgoings and was subject to so many restrictions. But there had been a tendency in his experience to milk the estate rather too much of capital, for things which a prudent absolute owner would do his best to meet out of income. He knew of a case in which very large sums were paid out of capital which, he thought, in view of the particular circumstances of the case would have been paid out of income by a prudent owner in fee. He had also been struck while listening to the Paper and the discussion, and also from the small amount of consideration which he had been able to give to the new Act of Parliament, which had not yet come into force, with the enormous extension of the responsibility that rested upon the professional surveyor. That was evident at every turn. He suggested, therefore, that surveyors should bear in mind that a tenant in life was sometimes led to do things which he would not do if he had the responsibility of absolute ownership, and the fact should be borne in mind that sometimes, because capital money had been raised from sales and was in the hands of trustees available for expenditure under the Settled Land Acts, a tenant for life might be led into what might be called eccentricities. It should be the duty and the business of the surveyor to keep that in check so far as he could. The case to which the last speaker had referred was a case in which a particular theory had been applied by a limited owner to an extent which, though to some extent wise, was in other respects found to be excessive. Dealing further with the question of the enormous personal responsibility of the professional surveyor, he thought the withdrawal for the first time of a preliminary check upon expenditure by doing away with the submission of a scheme to the trustees for approval opened the door to greatly increased power to the surveyor. Increased power carried with it increased

responsibility. It must be remembered that the foundation of the work was that it must be an "improvement"; it must be something which altered the *status quo*, and he thought if that was kept rigidly in mind it would be a safe guide in distinguishing "improvements" which were a legitimate subject for the expenditure of capital for "repairs" which must be met out of income.

He remembered a case—not of a settled estate—in which underground rooms were made at enormous expense. A tenant for life might think it was very nice to live in underground rooms, but expenditure for such an object would clearly not be expenditure authorised by the Settled Land Acts to be made out of capital moneys.

Mr. Bower asked the meeting to consider for a moment what the present procedure was. At the present time the surveyor of the tenant for life got out a scheme which might be initiated by him or by the agent or by the tenant for life, and that was submitted to the trustees for approval. In a case with which he was personally concerned the surveyor who had been appointed was "an able practical surveyor," according to the words of the Act. In his own practice the first thing he did was to send the scheme to the trustees' surveyor who had been approved by the court. As between the two eminent representatives of the surveyors' profession who sat on the opposite sides of the meeting room, he hesitated to give his vote in favour of the view that, especially under the new conditions, the surveyor for the trustees might also be the surveyor for the tenant for life. He did not see how, if the surveyor was the same man, he could avoid being influenced by the instructions of his employer, the tenant for life. He would not be doing his duty to the tenant for life if that were not the case. It seemed to him it was impossible for such a man to be employed "independently" both by the trustees and by the tenant for life. He did not see how it was possible for a man to cut himself into two pieces and discharge two independent functions.

Reference had been made to the fact in the Paper that the tenant for life might merrily enough actually start his improvements and carry them out without letting the trustees'

surveyor know what he was doing. It was possible for him to be as foolish as that. Personally he suggested that if the surveyor for the tenant for life was a reasonable man, he would not allow the tenant for life to embark upon a large improvement without getting into touch at an early date with the trustees or their surveyor in order to ascertain what was thought about the suggestion. Although it might not be necessary in future for a scheme to be formulated and put before the trustees at the outset, yet, if the first time the trustees heard of the expenditure was when they were called upon to foot the bill, they might look upon it with a jaundiced eye. The surveyor for the trustees might not then take the view that the surveyor for the tenant for life took, and great practical difficulties would occur. In the new Act there was a provision that if the parties disagreed, the court might decide the case. In his opinion, however, of all the expedients for making progress and saving expense an application to the court was about the most futile. It was little comfort indeed to him to know that if the parties disagreed an application might be made to the court. That was all very well for his pocket and for the pockets of other members of his profession, but he sincerely trusted that the members of his profession did, as he had no doubt surveyors would do, viz., not always consider their pockets, but look on the substantial interests with which they were entrusted. It seemed to him that, unless the matter was carefully watched and great care taken, most difficult positions would arise which might result in the tenant for life finding himself committed to large expenditure which he might not be able to recover. It must be remembered that it was the tenant for life and not the trustees who entered into the contracts and incurred liabilities.

Still dealing with the point of the responsibility of the surveyor, it seemed to him that perhaps one of the heaviest positions of responsibility that a surveyor could possibly find himself in related to the apportionment of the burden as between capital and income in cases in which it was thought proper that a tenant for life should make repay-

ments. He could not conceive of any more thorny subject, or one which was likely to create a greater difficulty. It was only another instance of the responsibility that was thrown upon the surveyor, especially if the trustees had not approved of the work in advance. The author of the Paper had referred to the serious point that although those matters might be carried through without any formalities, any person interested in the settled property—interested in reversion, for example—might object afterwards to what had been done. Trustees were human, and the trustees of a large settled estate were not going to take personal responsibility. That meant that they would throw themselves more and more upon the protection of their surveyor. That was what the surveyor was there for, and that was an additional reason why it should be agreed by all parties that the trustees' surveyor should be a person who looked entirely after the trustees' interests and had nothing to do with those of the tenant for life. Of course the trustees' surveyor could have as friendly relations as possible with the surveyor for the tenant for life, and it would be wise for both those gentlemen to get into touch very early in the proceedings.

As far as he had had time to do so he had given his opinions from the point of view of the family solicitor. He had hoped that a Paper of the importance of that under discussion might have been discussed at an adjourned meeting, but he was told that was impossible. He desired to thank the members for the patient hearing they had accorded to him and the President for the opportunity that had been afforded him of making the foregoing remarks.

[*Note.*—Mr. Bower wishes to add that he approves of the extension of authorised improvements provided by the Law of Property Act, 1922. The increased elasticity with regard to expenditure for general development throws an additional responsibility upon surveyors to ensure that the expenditure of capital money is kept both as to the objects and extent within what a prudent absolute owner could be advised to undertake. If this criterion is carefully borne in mind, it is in the public interest that elasticity should characterise the powers of dealing with land which are possessed by tenants

for life. Obviously cases in which æsthetic considerations come into play both require and justify a greater stringency of treatment with regard to the safeguarding of capital moneys.

With regard to the vexed question of repairs the principle of "reconstruction" is in many cases applicable, though in this instance also care has to be taken to distinguish reconstruction cases from cases of mere repair. The utilisation of this principle of reconstruction has, in the past, gone some way towards dealing with cases in which want of repair has gone far to render property incapable of use, though not quite so far as to call for pulling down and rebuilding.

The observations in the Paper with regard to the hardships which have, in practice, been thrown upon the tenant for life by the treating as capital of amounts received on an arrangement for a second peppercorn period are well founded. It is, of course, right that capital should be safeguarded, but the rights of income also call for equitable treatment.]

Mr. W. T. Hall (Member of Council) desired to add his thanks to those of the previous speakers to the author for the excellent summary he had given of the Settled Land Acts and the various means by which improvements could be paid for out of capital moneys. The value of the Paper could hardly be appreciated at the moment, but when it was on their book-shelves he felt sure that all who had to do work in connection with the Acts would often refer to it for information, and for the summary of the different Acts that was contained in it.

The first thing that struck a surveyor who had to prepare schemes was the complexity which concealed the different powers that a tenant for life possessed in regard to the expenditure of capital money. He spoke more especially in connection with agricultural estates. At the present time a considerable amount of capital money had been realised on many estates by the sale of outlying portions, and many tenants for life were utilising that money to im-

prove what was left of their property and to bring it up to date. That threw a considerable amount of work both on the agent who had to see to the carrying out of the work, and on the surveyor who was appointed by the trustees to certify it. Therefore it was of special importance that the members should have placed at their disposal the excellent Paper that had been read.

The last speaker had been good enough to give some very valuable hints from the legal point of view. As one who acted frequently as surveyor for trustees, he entirely agreed with Mr. Bower's statement that from the very first when a scheme was prepared the trustees' surveyor should be consulted, and that he should be in touch with the work from the very commencement. That was especially the case on country estates in which the scheme was very likely prepared and the work carried out by the resident agent and the clerk of works, because from practice and experience the surveyor was able to make suggestions during the course of the work which might perhaps save money, or even, if they did not accomplish that purpose, might improve the quality of work and make the improvement of greater value. He desired to suggest to the last speaker, as representing the legal profession, that the practice Mr. Bower advocated was not by any means universal. Surveyors frequently received requests for certificates which were fired at them in the most chaotic manner. Sometimes the surveyor received a bundle of vouchers, and he was expected to extract from it what the amount of the expenditure had been, or perhaps he received only a bundle of pay-sheets. Often the surveyor received a request for a certificate when the work was finished, so that he was quite unable to criticise or to deal with any deficiencies in it as he might wish to do.

Mr. Bower, interposing, said that he had only stated what was his own practice.

Mr. Hall said he fully appreciated that Mr. Bower had referred only to his own practice, but he did suggest that if other members of the legal profession would follow Mr.

Bower's example it would be very much better for the trustees of settled estates. He had just stated that the amount of capital money which was being made available for investment was considerable at the present time, and it probably had some effect in connection with the application for loans under the Improvements of Land Act. A considerable proportion of the money which was advanced under the Improvements of Land Act had been spent on drainage. If, however, inquiry was made in many parts of the country for the opinion of the old estate drainers on "that Government draining," it was not exactly encouraging for carrying out further work on the same principle. Such men would state that very often when the work was carried out the pipes had to be laid at a uniform depth up hill and down dale, across ridge and furrow; and as the work which was done in the seventies now came to be opened and repaired it was found that the drains were not working exactly as one would wish them to.

That brought him to a point he wished to make in connection with the responsibility of the surveyor. The responsibility of the surveyor under the Settled Land Acts was very much greater than the responsibility of the inspectors under the Improvements of Land Act. Under the latter Act an inspector had certain rules to guide him, but under the Settled Land Acts the matter was left entirely to the responsibility of the surveyor. The surveyor was to be "an able practical surveyor"; he had to certify that the work had been properly executed and the amount that was properly payable by the trustees in respect thereof. That showed the responsibility which fell upon the surveyor, and the necessity for him to be fully qualified and experienced.

Reference had already been made to the vexed question as to the propriety of the surveyor who prepared the scheme also acting as the surveyor to certify it. He mentioned that point because of an experience he had had in connection with certain work on an estate for which he was the agent, the work being carried out by an eminent engineer. The eminent engineer was told that a certain land agent was the surveyor appointed to certify the work, and immediately

replied, "What does he know about this work? Why "should So-and-so be asked to certify the work that I "have done?" One was a resident agent, the other was an eminent London engineer. He felt that he was in a very difficult position. He went home and thought the matter over, and the next time he saw the eminent London engineer he got over the difficulty by saying to him, "You know, it "is not so much actual engineering experience that is wanted "in this work; the surveyor has to take a much wider view "than an engineer is able to take or is expected to take. "The surveyor has to look upon the estate as a whole and "the value of the improvement to the estate. He has to "look upon it generally from the land agent's and the "surveyor's point of view, and it is on these grounds a "certificate is wanted." He did not know what Mr. Bower would say to that reply. Personally he was only a layman, and he was careful always to keep within the province of his profession, but he thought his answer was "rather a good "get out."

He desired, in the next place, to deal with the question of repairs. It often happened that when a tenant for life succeeded to an entailed estate he was met with a state of affairs which was simply deplorable, and the question arose as to how far he was able to apply to his trustees for capital money to put the estate into anything like reasonable order. The author stated that certain repairs were allowable, and in his experience capital money had been used in that way to put an estate into substantial repair, when it was delapidated, on a new owner coming in. He had suggested several times that it would be worth the while of a new limited owner coming into an estate to have a survey made of the condition of the farmhouses, buildings, drains, and so forth, on the estate, so that he might be able to judge at once the condition they were in and whether an application should be made to the trustees for help.

Reference had been made by one speaker to the question of a dairy farm on which a considerable outlay was required to modernise the farm buildings, presumably, and to put the drainage into proper condition. It was a case, he under-

stood, of a farm let on lease. It occurred to him that a way out might be found under the Agriculture Act. The tenant might be left to carry out the improvement himself and to claim for it as an improvement at the end of his tenancy, because he thought he was right in saying that where a limited owner had to pay at the end of a tenancy for such an improvement he would be able to charge it on the estate.

There was one other point only to which he wished to refer. Mr. Davidson, whom the members hoped to have the pleasure of visiting in Scotland before very long, had made him more than ever anxious to go to Scotland, because it was evident that it was one of the happiest places in which to live, compared with poor red-tape ridden England. Surveyors were evidently able to do things in Scotland that they, unfortunately, did not dare attempt to do in this country, although it was true that not so very long ago he was asked to certify capital expenditure that had been carried out many years ago, where some property had been sold, and it went through and a considerable amount was recovered for the tenant for life. It was not that, however, which struck him as so pleasant. Evidently from what Mr. Davidson had said, surveyors in Scotland were able to take a wide view, as one would expect from hard-headed Scotsmen, as to the benefit of an improvement to the settled estate, and not to bother themselves over-much by red tape or restrictions as to what could be done or what could not be done within the four corners of the Acts.

He desired, in conclusion, to thank the author once again for his able Paper.

Mr. J. G. Elsworthy (Fellow) said he desired, as one of the younger and less experienced members, to express his deep debt of gratitude to the author for his Paper. As the proposer of the vote of thanks had said, it was really more than a Paper, as it would form the basis of a most excellent text-book on a subject about which all the members desired to know a great deal more. The younger men in particular desired to know a great deal more about it, because there were certain members of the legal profession who when they

gave instructions sometimes put the statement, as a kind of after-thought, "My client is a tenant for life under the "Settled Land Acts." They did not give the surveyor any indication as to the terms of the settlement, and considerable correspondence ensued with the legal gentlemen before it was actually known what the position was. It seemed to him, therefore, that the Paper would concentrate the attention of members upon the necessity of getting at the facts in regard to the settlement before doing much else.

The second thing he had noticed in going through the Paper was the greater freedom given to the tenant for life under the new Law of Property Act. The tenant for life not only had the power to build his agent a suitable house, but he gathered, inferentially, that he also had the power to put up additional bathrooms for himself, which under the previous Act he did not possess.

He thoroughly agreed with the other speakers who had emphasised the necessity of two separate surveyors being appointed, one for the trustees and one for the tenant for life. Not only was pressure put upon the surveyor by the tenant for life, but the surveyor had far more to do with the tenant for life than with the nebulous trustees. He also had pressure put upon him by the wife of the tenant for life in regard to the improvement of the mansion-house. Should there be any difference of opinion, it was quite possible for the tenant for life to say to his wife, "My dear, I agreed to "the improvement; it was the wretched surveyor who would "not certify for it." It would be a very fine thing, indeed, if that responsibility could be placed on the trustees' surveyor.

With regard to town properties, he had been very much interested to notice that a section of the Law of Property Act, 1922, which dealt with that subject, gave power to grant a lease in reversion when the existing lease had not more than seven years to run at the date of the new lease. A surveyor was frequently tied up in dealing with town property when he was told that the trustees had no power to grant a reversionary lease, although, as a matter of fact, the reversionary lease was only wanted to take effect in two or three years' time. He also noticed that under the Act,

when the tenant for life had no power, the trustees should have the power. He did not think they had that power under the 1882 Act.

There were one or two other points to which he wished to refer. He had been very interested to notice that under the 1882 Act the turning of arable land into a cricket field had been allowed, but not the erection of a pavilion in connection therewith, while the expenditure in connection with a golf-house was allowed. He did not wish to be cynical, but it seemed to him that the legal gentlemen had a greater love for golf than for cricket.

The principle was admitted in the Act that there was a definite life for buildings as against the old theory that a freehold was a freehold in property as long as it was maintained. All the members knew that in connection with town properties there ought to be a fund created for what he might call the wearing out of buildings. A definite life ought to be fixed for the life of buildings, particularly in the centre of great towns where fashions changed so much. It seemed to him that a sinking fund for the replacement of buildings, apart from the dilapidations money or repairs ought to be created, and he thought under the Act it would be possible for that to be done. He also wished to refer to the question of the deferring of the peppercorn rent. He knew of a case in London at present in which a one and a half year's peppercorn was granted. The builder could not start within the one and a half years, and he obtained from the tenant for life a further extension of the one and a half years. It was ultimately decided by the trustees that the one and a half year's rent should be capitalised over the whole of the 80 years' term of the lease, so that the unfortunate tenant for life was penalised for the benefit of somebody who might be existing about 60 or 80 years hence, which hardly seemed to be fair. He noticed the author said that arrangements would probably be made whereby the tenant for life was not penalised. It was also interesting to notice from the Paper that commission was payable out of the capital fund because the capital fund was more able to pay it than the unfortunate tenant for life.

He thought the fact that the Paper was being discussed was very hopeful in view of Mr. Snowden's recent statement that the landowner was already paying in income tax, super tax, and death duties, 17*s.* in the £, and therefore, he assured his hearers, that all that would have to be capitalised when the Nationalisation Bill was passed was 3*s.* in the £ net income. It seemed to him that the promoters of the 1922 Act took the view that the landowner was not going under quite so quickly as Mr. Snowdon thought he was. He desired once again to express his cordial thanks to the author for his interesting and instructive Paper.

The President said, before putting the resolution of thanks to the author for his excellent contribution, he desired to say personally how much he had enjoyed it. He had had a great deal to do with settled land estates during his professional life, and knew that the difficulties were enormous. He noticed that the author in his Paper called attention to a useful reply by the late Mr. Thomas Wainwright in *Professional Notes.* He looked that Paper up in the *Transactions*, and found that thirteen questions were asked. Three eminent surveyors gave their opinions, and on the thirteen questions they agreed only upon two; upon the rest of them they differed. In view of the lateness of the hour he suggested that Mr. Bedells should not make a full reply that evening, but should send one in writing at a later stage. In that way he would be able to do greater justice to the comments of the various speakers.

The vote of thanks was then put to the meeting, and carried with acclamation.

Mr. C. Herbert Bedells, in reply, thanked the members for the kindly reception they had given to his Paper and for the vote of thanks that had been accorded to him. The subject had interested him very much, and he hoped what he had written would be of some practical utility in the future for reference purposes. It would, probably, at all events, put surveyors on enquiry, and if it had that effect it

would have largely answered its purpose. The present was the third Paper he had had the honour of contributing to the *Transactions*, and it was, therefore, not likely that it would fall to his lot to read another, but he had learned one lesson from his recent experience, and that was never to promise a Paper until it was actually written. He had had great difficulty in finding the necessary time, and he felt the Paper was therefore not as worthy as he would have liked it to be. If, on reading through the notes he had made with regard to the various points which had been raised by the different speakers, he felt he could add any useful comment, he would take advantage of the opportunity which had been suggested by the President, and send a communication for insertion in the *Journal*.

The following written reply has been received from Mr. C. Herbert Bedells :—

I avail myself of the President's suggestion to reply briefly to some of the questions raised in the course of the discussion.

First, with regard to Mr. Driver's question as to the drainage of an unsatisfactory dairy farm : the case appears to be one of practical re-drainage, not of slight alteration or improvement, and as such would appear to be properly within the powers as regards capital moneys, and at the same time one would imagine that the lessee, even if not able to contribute to the capital expenditure, should at least be able to pay in addition to his rent a proper interest upon the cost of the "improvement." If not, I do not see how a tenant for life could be guilty of waste if unable or unwilling to make capital expenditure, unless special obligation attaches to him by the provisions of the settlement.

As to his second question with regard to conversion into flats. If the circumstances justified the assertion that the property could not be let *rebus sic stantibus*, the case would appear to come within Clause (ii.), Section 13, of the Settled Land Act, 1890, as an alteration reasonably necessary or

proper to enable the same to be let. I have not the Act at hand for reference at the moment, but Mr. Driver might see to what extent this meets his point.

Mr. Driver's question as to dilapidation moneys recovered after the expiration of a lease is very definitely a question for a lawyer.

My layman's view, for what it is worth, is as follows: I have understood in such a case two preliminary questions have to be disposed of: (1) Is the tenant for life impeachable for waste? (2) Was the expired lease granted by virtue of the powers of the Settled Land Acts?

If the answers to both (1) and (2) are in the negative, then I think the tenant for life is entitled to the money recovered.

If the answer to (1) is in the affirmative, it has been held, I believe, that the reversioner may be entitled to require the money to be expended in making good the dilapidation, any surplus after such making good, if any, belonging to the tenant for life.

If the answer to (2) is in the affirmative, then it was held, in the case of *Mitchell* v. *Armstrong* (17 L. T. R., 495), that the damages recovered are capital, because by Section 53 (Settled Land Act, 1882) the covenants enure for the benefit of all parties.

I observe that the editors of "Law Notes," in their *Guide to the Law of Property Tax* (1922) on page 122, refer to the cases of *Re Lacon* (1911) and *Re Dealtry*, where it was held, they state, "that damages paid by a lessee for breach of a "covenant to repair are not capital, but belong to the tenant "for life as a casual profit, whether his estate is legal or "equitable."

After 31st December, 1924, it is clear, by Section 66 of the Law of Property Act, 1922, moneys so received in respect of covenants relating to settled land are capital, as pointed out on page 252 of my Paper.

Will members please note that "Settled Estates Acts, "1882-1890," on page 242 of the Paper, should read "Settled Land Acts, 1822-1890"?

THE ANNUAL GENERAL MEETING,

Monday, 28th May, 1923.

Mr. J. McClare Clark (President) in the Chair.

The Report of the Scrutineers, appointed at the Ordinary General Meeting of Monday, 7th May, 1923, under Article 49 of the By-laws, was read to the Meeting.

The Report declared that the following were elected a

COUNCIL FOR THE ENSUING YEAR.

Fellows.

CHARLES HERBERT BEDELLS
JOHN EVANS BIDWELL
JOHN FRIENDSHIP BOWDEN
FRANK JOHN BROWN
GEORGE TURVILLE BROWN
HERBERT MANSFIELD COBB, C.B.E.
ARTHUR GEORGE CROSS
EDWARD SAMUEL COX
JAMES INGLIS DAVIDSON
CHARLES DICKINSON
CHARLES GERALD EVE
WILLIAM HAROLD EVE
CHARLES BROWNING FISHER, C.B.E.
HARRY FRANKS
CHARLES HENRY GOTT
WILLIAM TIMOTHY HALL
FREDERICK HENRY APPLETON HARDCASTLE
SIR EDGAR JOSIAH HARPER
HENRY HARTLEY
STANLEY HICKS
FRANK WILLIAM HUNT, C.V.O.
BERNARD MARR JOHNSON
WALTER LAWRANCE
ERNEST HOLTHAM LEEDER
JOHN CAMPBELL MURRAY
HENRY BURROUGHES NAPIER
GEORGE FREDERICK PAGE
REGINALD HENRY POWELL
ERNEST ALFRED RAWLENCE
JAMES AUGUSTINE RUTHERFORD
SIR EDWIN SAVILL, O.B.E.
HENRY EDWARD SHERWIN
CHARLES JOHN HOWELL THOMAS
PERCIVAL FOX TUCKETT
JOHN DAVID WALLIS
DENDY WATNEY
HARRY JOHN CAMPION WINTERTON

Professional Associates.

CHRISTOPHER TURTILL FULCHER
STANLEY VVYVIAN HICKS
SYDNEY MAGER, C.B.E.
JOHN MAUGHAN

Associates.

GEORGE MALLOWS FREEMAN, K.C.
SIR HARRY COURTHOPE-MUNRO, K.C.

The Report of the Council on the affairs of The Institution and the Statement of Receipts and Expenditure for the year 1922 were read.

It was Resolved—"That the Report of the Council and the Balance Sheet be received and approved, and be printed and circulated with the *Transactions*."

It was Resolved—"That the thanks of The Institution be given to Messrs. H. C. Newmarch and H. S. Logsdon for the efficient performance of their duties as Auditors, and that they be requested to continue their services for the coming year."

It was Resolved—"That the thanks of The Institution are due and be given to the President, Vice-Presidents, and the other Members and Associates of The Council, for the able manner in which they have administered the affairs of The Institution."

It was Resolved—"That the thanks of The Institution are due and be given to Mr. A. Norman Garrard (the Honorary Secretary), to Mr. Alexander Goddard (the Secretary), and the other Officers of The Institution, for the able manner in which they have executed their several duties."

It was Resolved—"That the thanks of The Institution be given to Messrs. C. S. Burkett-Smith, W. R. Davidge, R. J. Dibdin, G. E. Dunnage, E. B. Gillett, P. E. Jones, H. W. Langdon, H. S. Logsdon, R. B. Mann, D. A. Rawlence, J. A. Rosevear, C. T. Steward, and G. L. Vigers for their services as Scrutineers."

The Chairman presented the following Prizes won by Candidates in the Preliminary and Professional Examinations, 1923:—

THE "PENFOLD" GOLD MEDAL

for the highest marks (over 75 % of the maximum) in the Final Examination, to William Francis Coatman, who obtained 834 marks out of 1,000.

Mr. Coatman was also the winner of

THE "GALSWORTHY" PRIZE,

being the Interest accruing on a Sum of £500,

awarded to the Candidate in the Final Examination who, having passed the Intermediate Examination in the Students'

Division, is found to have obtained the highest number of marks in the two Examinations combined.

THE "PENFOLD" SILVER MEDAL

for the highest marks (over 75 °/₀ of the maximum) in the Students' and Non-Students' Divisions of the Intermediate Examination, to PHILIP MONTAGUE POPE, who obtained 803 marks out of 1,000.

Mr. POPE was also the winner of

THE "DRIVER" PRIZE,

BEING THE INTEREST ACCRUING ON A SUM OF £500,

for the highest marks obtained by a Non-Student Candidate in the Intermediate Examination.

THE "CRAWTER" PRIZE,

BEING THE INTEREST ACCRUING ON A SUM OF £200,

for the best work in "Principles and Practice of Valuation," to OWEN WILLIAM BERESFORD ELLIS, in which he obtained 91 °/₀ of the maximum marks.

THE "INSTITUTION" PRIZE OF THE VALUE OF £15 15*s.*

to the Candidate at the head of the list in the Students' Division of the Intermediate Examination, was awarded to WILLIAM MORTON BALCH, who obtained 740 marks out of 1,000.

Mr. BALCH was also the winner of

THE "BEADEL" PRIZE,

BEING THE INTEREST ACCRUING ON A SUM OF £200,

for the best work in the subject of "Agriculture," having obtained 95 °/₀ of the maximum marks.

THE "SPECIAL" PRIZE OF THE VALUE OF £10 10*s.*

to Cyril Wilson Black, with an aggregate of 734 marks out of 1,000.

THE "CONSTRUCTIVE AND WORKING DRAWINGS" PRIZE OF THE VALUE OF £5 5*s.*,

to James Hamilton Anderson, who obtained 98 °/₀ of the maximum marks in this subject.

THE "QUANTITIES" PRIZE OF THE VALUE OF £5 5*s.*

to Albert Edward Clark, who obtained 89 °/₀ of the maximum marks.

THE "WAINWRIGHT" PRIZE,

BEING THE INTEREST ACCRUING ON A SUM OF £500,

awarded to the Candidate in the Final Examination who, having passed the Intermediate Examination, in the Non-Students' Division, is found to have obtained the highest number of marks in the two Examinations combined, to Cyril Matthews Smith.

THE "MELLERSH" PRIZE,

BEING THE INTEREST ACCRUING ON A SUM OF £100,

for the best work in "Outdoor Forestry, Timber Valuing "and Measuring," to Ernest Barry Bowyer, who obtained 79 °/₀ of the maximum marks.

THE "PRELIMINARY" PRIZE OF THE VALUE OF £2 2*s.*

to Eric Charles Marshall, who obtained 439 marks out of 500.

THE FIFTY-FIFTH
ANNUAL REPORT OF THE COUNCIL.

ANNUAL GENERAL MEETING,
Monday, 28th May, 1923.

The year dealt with in the Fifty-fifth Annual Report of the Council must always stand in a somewhat exceptional position in the annals of The Institution, in that during it the first real steps were taken to secure by legislation that persons practising in the profession should possess certain definite qualifications for their work.

The Landed Property Practitioners (Registration) Bill was prepared by a Joint Committee of The Institution, the Auctioneers' and Estate Agents' Institute, and the Land Agents' Society. It was submitted in its draft form to the members of those bodies, and received substantial and general approval. The support of a number of members of Parliament was obtained, and several put down their names for the Ballot for Private Members' Bills at the opening of the present Parliamentary Session with the object of introducing the Bill if a favourable place were obtained. Of these Sir Edgar Chatfeild Clarke, M.P., a brother of the late President of The Institution, drew the best place in the Ballot.

The Bill was introduced on 16th February, and was then printed and circulated by order of the House. It was put down in the Orders of the Day for Second Reading on the 27th April, but unfortunately was preceded by the Prevention of Unemployment Bill, the discussion on which proved so prolonged as to occupy the whole of the available time. In the circumstances further progress is not likely to be made with the Bill during the present Session. Its intro-

duction, however, has served a useful purpose, and has enabled the promoting bodies to ascertain the quarters from which opposition might be anticipated, and to what extent, if any, such opposition might be removed by the acceptance of reasonable amendments.

The Council recognise that legislation of this character cannot be expected to succeed on the first occasion of introduction. The electorate must be brought to realise that the public would benefit by its adoption, and greater facilities will then be afforded for its progress through Parliament. A good start has, however, been made, and the Council are greatly indebted to Sir Edgar Chatfeild Clarke and the other supporters of the Bill for their services.

Membership.

The statistics of membership continue to show an increase, the total being 5,894 compared with 5,728 at the same date in 1922. The increase has been mainly due to candidates successful in passing the Intermediate Examination recognising the advantages of a connection with The Institution and applying for enrolment as probationers. The increase of professional members has been comparatively small, the number of Fellows or Professional Associates elected at the ballot in October having been largely balanced by the number of deaths and retirements from practice or exchange into some form of business, which have been somewhat above the average during the year.

TABLE A.

	Honorary Members.	Fellows.	Colonial Fellows.	Professional Associates.	Associates.	Probationers.	Students.	Total.
May, 1922	29	2541	106	2683	44	88	237	5728
„ 1923	29	2568	114	2688	43	210	242	5894
	—	+27	+8	+5	−1	+122	+5	+166

TABLE B.

	Members (or "Fellows" after 1881):	Associates.		Probationers.	Students.	Total.
		Professional.	Ordinary.			
May, 1869	162	38			2	202
,, 1870	180	59			2	241
,, 1880	342	155			10	507
,, 1890	1095	310	89		123	1617
,, 1900	1883	757	88		336	3064
,, 1910	1862	1970	75		365	4272
,, 1920	2191	2510	47	36	132	4916
,, 1921	2281	2553	47	45	205	5131
,, 1922	2541	2683	44	88	237	5593
,, 1923	2568	2688	43	210	242	5751
					Honorary Members ...	29
					Colonial Fellows ...	114
					1922 Grand Total ...	5894

In 1883, "Associates" were divided into "Ordinary" and "Professional" Associates.

Members will have welcomed the election of Mr. Daniel Watney as an Honorary Member on his retiring from active practice. Mr. Watney is the only remaining original member, and to no one is The Institution more indebted for many years of valuable service on the Council and on Standing and Special Committees. The active part taken by The Institution in forestry matters and the formation of the Forestry Museum are principally due to Mr. Watney's initiative and interest in that important subject. The Watney Prizes, given for the best work in the Special Forestry Diploma Examinations, were endowed by his generosity.

The Council have to record with great regret the death of their colleagues Mr. Charles Bidwell and Mr. George Corderoy. Mr. Charles Bidwell was one of the oldest members of the Council, on which he had served for upwards of thirty years, occupying the Presidential Chair in 1905 with great distinction. A portrait of Mr. Bidwell, and a short account of his professional career, appear in the February number of the *Journal*. Mr. Corderoy died after a short illness in March last. He had been a Member of Council since 1914, and Chairman of the

Quantity Surveyors' Committee since 1915. He was a man of many interests and wide attainments, and his loss will be greatly felt by those who have had the advantage of working with him.

Other old members whose deaths during the year have already been the subject of obituary notices in the *Journal* are Mr. Charles Bishop (1890), Swindon; Mr. E. J. Bridgford (1887), Manchester; Mr. Henry Dann (1882), Kent; Mr. J. J. Gale (1882), Bucks; Mr. C. J. Hornor (1887), Norfolk; Mr. H. H. Hubbersty (1869), Derby; Mr. J. Morgan Davies (1873), South Wales; Mr. J. G. Peard (1891), Somerset; Mr. John Rodham (1891), Stockton-on-Tees; Mr. A. T. Walmisley (1882), Westminster and Dover, for many years Institution examiner in Land Surveying and Levelling; and Mr. Samuel Walker (1881), London. Among more recent members whose loss to The Institution will be severely felt may be mentioned Mr. G. T. Brown (1912), Sunderland, late Chairman of the Northumberland and Durham Branch; Mr. Philip Champion (1905), Kent; and Mr. E. A. Huskinson, M.C. (1902), Nottinghamshire, a grandson of Mr. Thomas Huskinson, President of The Institution in 1874.

The Council desire to record their deep sympathy with the relatives in their bereavement.

Finance.

As anticipated under this head in the last Annual Report, the question had to be considered during the year whether The Institution could increase or indeed maintain its activities on its existing income. The whole matter was thoroughly discussed at the Conference of County Branch representatives, and also at a Special General Meeting on the 9th October, when it was decided to increase the Fellows' subscription from three to four guineas per annum. A full statement of the position had previously been circulated to all members.

It will be seen from the Receipts and Payments Account at the end of this Report that the ordinary running expenses of The Institution, together with the first annual contribu-

tion of £500 per annum for ten years to the College of Estate Management, exceeded by £2,285 the receipts from members' subscriptions, hire of rooms, dividends, &c. To meet this deficiency the entrance fees of new members, which should properly be treated as capital, and the profits from examinations, which are too unstable in character to be relied upon to meet ordinary expenses, have been brought into account; and in addition a capital sum of £324, transferred to The Institution on the amalgamation with the Quantity Surveyors' Association. The examination entry was again well above the average, resulting in a considerable surplus, and by bringing the above-mentioned items into account the deficit, comparing the total receipts against total expenditure, has been met. The addition to income arising from the increase in Fellows' subscription will place The Institution in a sound financial position, and enable it to continue and extend both its Branch and central work.

The Examinations.

Tables C and D show the number of candidates who sat for the Examinations and the number who passed.

Table C.

Years.	Preliminary Examinations.			Professional Examinations.		
	Candidates.	Passed.	Percentage.	Candidates.	Passed.	Percentage.
1881	13	6	46·15	2	1	50·00
1890	53	44	83·01	96	70	72·91
1900	131	102	77·86	325	193	59·38
1910	130	95	73·08	623	437	70·14
1911	137	92	67·15	768	516	67·18
1912	121	78	64·46	1,102	738	68·76
1913	146	93	63·69	1,266	724	57·19
1914	145	100	68·96	1,095	670	61·19
1915	84	61	72·61	526	290	55·13
1916	44	32	72·72	140	80	57·15
1917	34	26	76·47	73	52	71·23
1918	32	24	75·00	53	40	75·47
1919	23	19	82·60	85	65	76·47
1920	70	55	78·57	487	322	62·12
1921	75	64	85·33	868	544	62·67
1922	71	59	83·09	738	478	64·77
1923	104	85	81·73	683	374	54 76

TABLE D.

England and Wales.

—	Sub-Division I. Land Agency			Sub-Division II. Valuation.			Sub-Division III. Building and Quantities.			Sub-Division IV. Mining.			Percentage of Candidates who Passed.
	Examined.	Passed.	Referred Back in Typical Subject.	Examined.	Passed.	Referred Back in Typical Subject.	Examined.	Passed.	Referred Back in Typical Subject.	Examined.	Passed.	Referred Back in Typical Subject.	
Intermediate Examination, Students	21	14	—	41	20	7	35	16	9	1	1	—	52·04
Intermediate Examination, Non-Students	35	16	—	134	71	5	70	21	5	2	2	—	45·64
Final Examination	30	22	—	97	62	20	64	39	9	5	2	1	63·77
Direct Fellowship Examination	—	—	—	3	2	—	5	4	—	1	—	—	66·66
Special Examination	11	6	—	15	5	4	14	7	2	1	—	1	43·90
Totals	97	58	—	290	160	36	188	87	25	10	5	2	52·99

Sixty-seven candidates came up for re-examination in their Typical Subject, and of these 40 were successful.

The number of examinees sitting at Glasgow was 25, of whom 13 entered for the Intermediate, 2 for the Final, 1 for the Direct Fellowship, 2 for the Special Single, and 7 for the Typical Subjects only. Of these 19 satisfied the examiners, while 4 were referred back in their Typical Subjects.

Six candidates sat at Dublin, 3 for the Intermediate.

2 for the Final, and 1 for the Special Single. Of these 5 were successful.

The Special Diploma Examinations.

Ten candidates entered for the Special Diploma Examination in Rating which was held in June, and of these seven were successful in obtaining the 60 per cent. of marks necessary to obtain the Diploma. The following are the names of the successful candidates :—

ARTHUR BENSON CROSBY.
CHRISTOPHER DALGLIESH.
HARRY DAYKIN.
REGINALD GUY KIRKBY.
MAURICE KERSHAW MATTHEWS.
GEORGE VINCENT NYE.
ALFRED GEORGE SYMES.

A sufficient number of candidates did not present themselves to justify examinations being held in the other subjects for which diplomas are given.

This year, being the triennial year, examinations will be held irrespective of the number of candidates. The following are the numbers expected to sit: Forestry 1, Rating 7, Sanitary Science 2, and Advanced Land Surveying and Levelling 1.

The Council regret that a larger number of members do not take advantage of these examinations. Apart from the effect which the possession of a Special Diploma may have in the future on their practice, the study of the more advanced stages of a subject as mental training cannot but prove beneficial professionally over a much wider area than is covered by the particular subject in which the diploma was taken.

The Examiners.

The Council regret to report the death of Mr. F. J. Lloyd and Mr. A. T. Walmisley, who for many years had acted as examiners in Agricultural Chemistry, and Surveying and Levelling respectively, and desire to record their appreciation of the services rendered by these gentlemen to The Institution. Their places have been filled by the appointment of Dr. J. Augustus Voelcker and Major A. E. Gayer, M.C.

Other changes have occurred during the year by the retirement as examiners in Imperial Taxation and Quantities

(Final, Typical) respectively of Mr. G. Turville Brown and Mr. J. E. Drower, C.B.E. Mr. Ernest Watson has been appointed in place of the former, while Mr. A. G. Cross and Mr. P. F. Gleed, the latter of whom formerly took the Intermediate Non-typical Paper in Quantities, have now been appointed jointly in place of Mr. Drower, Mr. E. C. Harris taking the position vacated by Mr. Gleed.

The following is a list of The Institution Examiners, to whom the thanks of The Institution are due for so generously undertaking the work of examination :—

Mr. A. Body.
Mr. E. Witton Booth, M.B.E.
Mr. G. L. Brighton.
Mr. A. Burnett Brown.
Mr. J. W. Willis Bund, C.B.E.
Mr. J. Bury.
Mr. H. W. Carlton.
Mr. C. Chart.
Mr. W. A. Cheeke.
Mr. Robert Cobb.
Sir H. Courthope-Munro, K.C.
Mr. A. G. Cross.
Mr. J. L. Crouch.
Mr. A. L. Currie.
Mr. Donald Currie.
Mr. W. R. Davidge.
Mr. Donald Dinwiddy.
Mr. M. C. Duchesne.
Mr. C. Gerald Eve.
Mr. W. H. Eve.
Mr. M. Fitzgerald.
Mr. William Fraser.
Mr. Gordon T. Frew.
Mr. H. Freyberg.
Major A. E. Gayer, M.C.
Mr. J. Gilchrist.
Mr. P. F. Gleed.
Lt.-Colonel J. Grimwood, C.B., D.S.O.
Mr. C. O. Hanson.
Mr. F. H. A. Hardcastle.
Mr. E. C. Harris.
Mr. T. W. A. Hayward.
Mr. Eustace Hills, K.C.
Mr. F. Hudleston.
Mr. John Hume.
Mr. F. W. Hunt, C.V.O.
Prof. J. T. Jackson.
Mr. J. Johnstone.
Mr. E. M. Konstam, K.C., C.B.E.
Mr. Cuthbert Lake.
Mr. John Luke.
Mr. G. T. McCaw.
Mr. W. McCracken.
Mr. R. B. Mann.
Mr. P. T. Maw.
Mr. R. F. Middleton.
Mr. H. P. Monckton.
Mr. E. C. P. Monson.
Mr. E. J. Naldrett.
Mr. T. A. O'Donahue.
Mr. A. Paull.
Mr. E. C. Pinks.
Prof. H. A. Pritchard.
Mr. W. G. S. Rolleston.
Mr. A. L. Ryde.
Mr. E. H. N. Ryde.
Mr. E. J. Silcock.
Mr. S. L. Thacker.
Mr. Gilbert Thomson.
Dr. J. Augustus Voelcker.
Mr. H. T. Wales.
Mr. E. Walford.
Mr. Alexander Walker, C.B.E.
Mr. W. Selves Walker.
Mr. Ernest Watson.
Mr. H. J. Watson.
Mr. John Watson, M.B.E.
Mr. M. L. Wheldon.
Mr. E. Willis.
Mr. J. Wilson.
Mr. L. S. Wood.
Mr. H. G. B. Wyatt.

Educational.

The College of Estate Management.

As stated in the last Annual Report, on The Institution intimating its willingness to give its official support to the College of Estate Management, a humble petition was addressed to His Majesty praying that he would be graciously pleased to grant a Royal Charter of Incorporation to the College. The Council are pleased to be able to report that this petition was favourably received, and that in August last the King approved the grant of the Charter incorporating the College as a Body Corporate. The President and Secretary of The Institution for the time being, together with nine other representatives of The Institution nominated by the Council, are members of the Board of Governors.

His Royal Highness the Prince of Wales has been pleased to interest himself in the work of the College. On the 10th April he visited the building in Lincoln's Inn Fields, and in the presence of a large and distinguished company performed the Inaugural Ceremony, a bronze tablet being unveiled to commemorate the event.

The number of students who have joined the College has fully justified the anticipations of the promoters in founding it. It is interesting to note that out of 478 successful candidates in The Institution examinations for 1922, 378 were students of the College, while 12 out of the 13 prizes awarded were taken by College students. In the examinations for 1923, out of 374 successful candidates 285 received their tuition at the College, taking 10 of the 13 prizes.

While there is every reason to believe that the College will prove successful financially as well as educationally, funds can still be advantageously employed in extending its sphere of usefulness. More particularly can this be done by the organisation of provincial centres at which students outside London will be brought into actual touch with the teaching staff by means of local lectures and personal interviews. Local committees have already been formed at five

provincial centres for this purpose, namely, Birmingham, Bristol, Liverpool, Manchester, and Newcastle.

The Royal Agricultural College, Cirencester.

The Council are pleased to be able to report that the Royal Agricultural College, which was founded in 1845, and incorporated by Royal Charter, but was closed during the war, has now been reopened. Professor M. J. R. Dunstan, late Principal of the South Eastern Agricultural College, Wye, has been appointed Principal, and upwards of 60 students are already in residence. The College was visited by their Majesties the King and Queen on the 12th April.

All will be glad to know that this the earliest and widest known of the agricultural colleges, and one which has for so many years been closely connected with The Institution, has been able to re-open its doors with every prospect of a successful and useful future.

Sir John Oakley and the Secretary (Mr. A. Goddard), both former students of the College, have been elected upon the Board of Governors.

The Institution Scholarships.

The competitive examination for the scholarships was held, as usual, in January, sixteen candidates from all parts of the country presenting themselves.

The examination is purely scholastic as distinct from technical, its object being to insure that those who benefit by the scholarships have a sound general education upon which to base their more technical studies. While all candidates are required to write an English essay chosen from four subjects set by the examiners, they have the option of completing their test in either languages, mathematics, or science. On this occasion no candidates selected languages, but the average standard of attainment in mathematics and science was higher than in any examination since the war.

Mr. A. J. Hill (Science), who came out at the head of the list, obtained 76·2 per cent. of the total marks allotted

to his subjects; Mr. J. R. H. Otter (Mathematics and Science), 63·1 per cent; Mr. H. L. Haag (Science), 61·6 per cent.; and Mr. W. A. Wakefield (Mathematics and Science), 54·9 per cent. Two scholarships of £80, one of £60, and one of £50, have been awarded to these candidates in the order named. The scholarships will be held for three years at recognised Universities to be selected by the candidates, and in courses approved by the Council as appertaining to the profession.

For the first time during the eighteen years the scholarships have been offered, all the successful candidates have come from the same school, each of the above four having been educated at the Westminster City School.

It would be a great and additional inducement to young men to compete for these scholarships and to fit themselves for their profession by the highest educational training available, if leading members of The Institution would offer to take into their offices as non-premium pupils men who have obtained University degrees as a result of The Institution scholarships. The parents of these men frequently have a difficulty in starting them on their practical training after the heavy expense of three years at a University, even when assisted by a scholarship. The Council, therefore, with every confidence submit this suggestion to members.

The Monthly Journal.

Under this head it has been usual to set out a list of the Papers which have been read and discussed during the session.

The attendances at the meetings have been good, and the discussions which have followed the reading of the Papers have been sustained and useful. The authors have confined the time of reading to about twenty minutes, taking parts of the Paper as read, a method made practicable by the publication of the Paper in the *Journal* before the date of reading but capable of further improvement. This has enabled additional time to be devoted to the discussions.

The thanks of the Council and members are due to those

who have provided so interesting a series of Papers for the *Transactions*. The programme has comprised :—

Date.	Subject of Paper.	Author.
1922.		
Nov. 13...	The Opening Address ...	The President.
Dec. 11 ...	Food Production during the War ; Compensation under D.O.R.A. Regulation 2 M(1)	Major E. Meacher (Fellow).
Dec. 11 ...	The Agricultural Position and the possibility of stimulating Economic Production in the Future	H. German (Fellow), Presi- of the National Farmers' Union.
1923.		
Jan. 8 ...	Zoning in the Control of Large Cities	Frank Hunt, C.V.O. (Member of Council).
Feb. 12 ...	The Law of Property Act ...	C. P. Sanger, Barrister-at-Law.
Mar. 12...	The Re-valuation for Landlord's Property Tax, Schedule A	C. Gerald Eve (Member of Council).
April 9 ...	Discussion on the Position with regard to the Rent Restriction Acts	
May 7 ...	The Functions of a Surveyor under the Settled Land Acts and Part II. of the Law of Property Act	C. H. Bedells (Member of Council).

In addition to the extracts from Council Minutes, law cases, reports of Branch meetings, and on other domestic matters, a number of useful articles has appeared in the *Journal*. Among these may be mentioned reports of several cases under the Agriculture Act in the July, August, October and February issues; Mr. C. T. Sanctuary's article on "The Weather and the Wheat Crop" (Jan.), in continuance of the long series which has appeared yearly on this subject; Papers read at County Branch Meetings on "Real Estate (Urban) in War Time and after" (August) by Mr. J. F. Linney, "Principles of Forestry (No. 2)" (Sept.) by Mr. John Maughan, "The Equalisation of Rates"

(Oct.) by Mr. E. H. N. Ryde, "The Construction and "Maintenance of Roads" (Jan.) by Mr. H. R. Hepworth; and at Junior Meetings, "The Valuation of Market "Gardens" (Feb.) by Mr. W. F. Hirst, which obtained the President's Prize; articles on "The Allotment Act, 1922" (Nov.); and on "Planning for Sunlight" (April), the latter an ingenious proposal by Mr. P. J. Waldram.

Reference is made elsewhere to reports by the Council on the Rent Restriction Acts, agricultural depression, and other matters; to the important opinion on the proper tribunal for settling claims in connection with the State occupation of land (November), and to the agreement of the London County Council with regard to the employment of quantity surveyors (August).

The Library.

A record of members who served in the Navy, Army, or Air Forces, with their rank on demobilisation and distinctions gained, beautifully executed by Miss Margaret T. Holden, late of the Royal College of Art, has been placed in the Library. Members will be interested in seeing this artistic memorial of the Great War.

During the year, apart from new editions of standard books and other professional publications, no works calling for special comment have been added to the Library.

The Forestry Museum.

The exhibits in the Forestry Museum have now been completely re-arranged, and new and instructive additions have been made with the object of bringing the collection up to date, and of making it as instructive and interesting as possible to all sections of members. In particular it is desired to illustrate the utilisation of native timbers, and important points affecting practical forestry.

The lower room is now devoted to exhibits connected with Practical Forestry, Botany, and Forestry Science; the upper room to exhibits illustrating the conversion and uses of native timber, of special interest to the architect and

builder as showing its use for constructional work, paving blocks, creosoting, &c. Examples of the various imported timbers are included for comparison with the native, and also of the timbers usually required in the construction of buildings. The collection also comprises exhibits of interest to land agents and others dealing with woodlands, including the planting and production of trees, and their diseases and pests.

The collection of insects now comprises over 80 different specimens. It is hoped to make this section as complete as possible, so as to facilitate the study of insects and diseases affecting woodlands and their relation to the preservation of timber.

There are also exhibits to illustrate the timber required for various trades, such as Ash and Willow for the sports trade, Ash for the handle trade, and the wood required for many purposes by the G.P.O. and other departments; also the sizes, species and details for fencing, turnery works, &c.

A comprehensive catalogue is in course of preparation, in which short descriptive notes will be given dealing with the more important points of each exhibit. It is hoped to publish extracts in The Institution's *Journal* with the object of stimulating interest and also of giving information to students and members.

The Council desire to acknowledge the indebtedness of The Institution to the following who have kindly contributed exhibits to the Museum: The Earl of Yarborough, Messrs. E. F. Vernon-Harcourt, H. C. Caffin, Paul Waterhouse, Ingram, Perkins and Co., G. Cruttwell, Ben Reid and Co., Hurst and Son, Ransomes, Ltd., Oates, Ltd., Atherton, Ltd., Calders, Ltd., The Garden Fencing Co., The Wilson Bobbin Co., and Armstrong Addison, Ltd.

The Standing and Special Committees.

Apart from Council meetings, upwards of eighty meetings of Standing and Special Committees have been held. Under the new organisation, which came into operation at the beginning of the year under report, one-third of each

committee is now composed of members outside the Council. By this means the interest in the work of The Institution is widened, while the Council have the advantage of new minds and new ideas in their deliberations.

A number of measures before Parliament have been dealt with by the Appropriate Committees; these include the Rating of Machinery Bill, the Finance Bill, the Rent Restrictions (Notices of Increase) Bill, the Housing, &c. (No. 2) Bill, and the Mines (Working Facilities and Support) Bill. Evidence has been prepared for submission before the Departmental Committees on the Rent Restrictions Act and the simplification of income tax forms, and reports have been drawn up on the effect of the decision in *Kerr* v. *Bryde*, and on the proper tribunal for settling claims where land has been occupied by the State. On the latter subject the opinion of Mr. A. F. Wootten, K.C., was taken (*Journal*, Vol. II., p. 182).

The Agricultural Committee has been concerned with the serious position in which the industry has been placed by the great fall in the prices of produce, and a report suggesting certain methods of alleviating the position has been submitted to the Minister of Agriculture (*Journal*, p. 367). The Committee has also under consideration the position which will arise after 1925 when the statutory stabilisation of tithe terminates, and the possibility of securing greater uniformity in connection with tenant-right and stock-taking valuations throughout the country.

The Forestry Committee has been dealing with standard conditions of sale for sales of timber by private treaty, railway rates on timber, and the assessment of woodlands under Schedule D.

The Quantity Surveyors' Committee, as newly constituted under the amalgamation agreement, has had a busy year. Their most important work has been the completion and issue of the "Standard Method of Measurement of "Building Works," prepared by the Joint Committee representing The Institution and the National Federation of Building Trade Employers. 1,900 copies of this publication have already been issued.

The Committees' time has also been largely employed in attempting to arrive at an understanding with the Ministry of Health as to the proper interpretation of Housing Memorandum No. 31, with regard to the fees payable to surveyors for adjustments on the completion of contracts for housing schemes. It is hoped that an agreement fair to all parties may be concluded and recourse to litigation thereby avoided. It is satisfactory to note that representations, addressed to the London County Council, drawing attention to certain conditions in their form of agreement for the employment of quantity surveyors, which were open to objection, have been well received and the form amended accordingly. A sub-committee set up to consider cases of peculiar hardship arising under Housing Memorandum No. 58 has had many sittings and dealt with a large number of cases.

A number of special committees has been set up during the year to deal with questions such as evidence before the Royal Commission on Greater London; the London County Council draft By-laws for Tenement Dwellings under Section 94 of the Public Health (London) Act, 1891; and the preparation of a Memorandum on the Town Planning Acts; while the Sanitary Science Section is at present engaged on a revision of the Drainage By-laws of the London County Council.

The County Branches.

That the interest in the meetings and work of the County Branches continues to grow is shown by the fact that the expenditure under this head during the past three years has progressively risen as follows: 1920, £967 14*s.* 9*d.*; 1921, £1,175 18*s.* 7*d.*; 1922, £1,713 10*s.* 1*d.* Many of the meetings have been attended by the President and Secretary, who are always glad to make arrangements to attend when it is considered likely that their presence would be of assistance to the Branch.

The activities of the Lancashire Branch, referred to at some length in last year's Annual Report, have been followed by other Branches, and regular programmes of

meetings have been arranged. At these meetings Papers on professional questions have been read and discussed, as well as subjects referred to the Branches by the Council, such as the Landed Property Practitioners (Registration) Bill, and the *Questionnaire* issued by the Departmental Committee on the Increase of Rent and Mortgage Interest (Restrictions) Act. The replies received from all parts of the country to this *Questionnaire* were of the utmost value in the preparation of the *précis* of evidence submitted to the Departmental Committee on behalf of The Institution. A copy of this Memorandum will be found on page 194 of the *Journal* for November last.

In Lancashire, Scotland, South Wales and Monmouthshire, Sussex, Warwickshire and Yorkshire regular meetings of Junior Members have also been organised, and, as has been shown by the attendances, have been greatly appreciated. The Institution is much indebted to those who have initiated this movement, which must prove of the greatest value in interesting and training those in whose hands the administration of The Institution's affairs will ultimately rest. Similar organisations are under consideration in other Branches, and it is hoped that they may finally be established in all centres where the membership is sufficiently concentrated to enable a fair attendance to be secured.

The Annual Conference between the Council and the Chairmen and Hon. Secretaries of County Branches was held on the 5th February, and was attended by thirty Members of Council and thirty-eight representatives of the County Branches. A report of the meeting appears on page 340 of the March *Journal*. The various matters discussed have been referred to the appropriate Standing Committees for the requisite action to be taken.

Thanks to favourable weather and the excellent programme and arrangements made by the Committee of the Salop, Hereford and Mid-Wales Branch, the Annual Country Meeting, which was held at Shrewsbury in June last proved most successful, and was thoroughly enjoyed by all who took part in it. An account of the meeting was inserted in the *Journal* for July, but the Council would like to take this

opportunity of expressing their appreciation of the services of all those who did so much to secure its success.

The following table shows the officers and membership of the several Branches:—

Committee.	Chairman.	Hon. Secretary.	Number of Members.
Bedford, Essex, Hertford, and Middlesex	J. J. Done	A. W. Merry	586
Berks, Bucks, and Oxon ...	P. C. Holiday	A. S. Shorney	141
Cambridge, Huntingdon, Norfolk, and Suffolk	W. P. Theakston	E. O. Hines	141
Cumberland and Westmorland	W. J. Heskett	T. Brown	40
Devon and Cornwall	J. H. F. Foster	J. F. Bowden	124
Gloucester, Somerset, and North Wilts	C. Herbert Smith	R. H. K. Price	178
Hampshire, Dorset, and South Wilts	H. E. Duke	A. S Burnett	217
Irish Branch	A. H. Lee-Norman	B. J. Newcombe	183
Kent	W. Day	R. Cobb	208
Lancashire and Cheshire ...	Herbert Hall	D. O. Dunlop	426
Leicestershire, Northamptonshire, and Rutland	G. German	J. L. Woolley	71
London (City and Eastern) ...	J. R. Lancaster	G. L. Vigers	420
London (North-West) ...	Cuthbert Lake	H. How	566
London (South-Western) ...	H. H. Skipper, M.B.E.	B. Briant	495
Northumberland and Durham	W. J Cochrane	W. Turpin	126
Nottingham, Lincoln, and North Derby	H. J. Foot	A. A. Walton	118
Salop, Hereford, and Mid-Wales	J. Edmonds	A. M. Hickman	63
Scottish...	J. C. Murray	D. M. Mackay	269
Surrey	C. Chart	T. Brent	340
Sussex	G. Gardner	R. M. Ogilvie	161
Wales (North)...	D. Evans	D. A. Hardcastle	40
Wales (South) and Monmouthshire	D. T. Davies	J. O. Watkins	201
Warwick, Worcester, Stafford, and South Derby	H. J. C. Winterton	E. G. Bigwood	276
Yorkshire	H. J. Watson	G. F. Weatherill	269

Junior Meetings.

The Junior Members Committee are to be congratulated upon a successful session; the meetings have been well attended, and the discussions following the Papers were admirably sustained.

The following programme of Papers was arranged :—

Date.	Subject of Paper.	Author.
1922.		
Nov. 20...	The Valuation of Market Gardens	W. F. Hirst (P.A.S.I.), Hon. Sec., Yorkshire Branch Junior Meetings. [President's Prize Paper.]
Dec. 18...	Town Planning	J. R. Toovey (P.A.S.I.). [The Surveyors' (1913) Club Prize Paper.]
1923.		
Jan. 15 ...	Law of Property Act, 1922 ...	W. H. Scanlan (P.A.S.I.).
Feb. 19 ...	Boundaries, Gates and Fences	A. V. Hedges (P.A.S.I.).
Mar. 26...	Industrial Property and Incidents relating thereto	H. E. English (P.A.S.I.).
April 16	Public Enquiry into a Scheme involving the Clearing of an Insanitary Area under Housing of Working Classes Acts	
April 23	The Rating of Machinery ...	F. G. Fleury (P.A.S.I.).
May 7 ...	Annual General Meeting.	

The Dance organised by the Junior Members' Committee was held at the Wharncliffe Rooms on 19th January, when nearly 300 were present, including many Members of Council. A profit balance of £54 was made, which was presented to the Benevolent Fund of The Institution. The Annual Dinner was held at the Connaught Rooms on 26th April, Mr. E. B. Gillett, Chairman of the Junior Meetings, presiding.

Reference is made under the heading of County Branches to the organisation of Junior Meetings in County Branch districts. The Council attach great importance to this method of interesting junior members in the work of The Institution, and helping them to realise that membership of a professional society carries with it duties and responsibilities as well as advantages. Mr. E. Lydall Savill, the Secretary of the Junior Meetings, or the Secretary of The Institution would be glad to give information and advice to those contemplating the setting up of these organisations.

The Employment Register.

The prevailing depression in trade and consequent need for economy have had their effect upon the profession, and have resulted in an increase in the number of those making use of the register for the purpose of obtaining employment. This is more particularly the case with members qualified in the Land Agency Sub-Division, who are still suffering from the breaking up of estates after the war.

While a considerable number of places have been filled during the year, and employers appear to be making substantial use of the register, the Council desire to urge members, with posts to fill, in all cases to apply to the Secretary in the first instance. By so doing they will be doing an invaluable service to younger members, and will have the advantage of obtaining selected lists of members possessing the qualifications needed.

Miscellaneous.

In the last Report reference was made to negotiations which were in progress with the Land Agents' Society with regard to the possibility of an amalgamation of the two bodies. Owing to legal difficulties which have arisen in connection with the constitution of the Society, it has been found necessary, for the present at any rate, to discontinue these negotiations.

The following members have served during the year on the several Royal Commissions, Departmental Committees, &c., indicated :—

The Estates Committee of the Royal Commission on Oxford and Cambridge Universities.—Mr. H. M. Cobb, C.B.E., Sir Howard Frank, Bart., K.C.B., Sir John Oakley, and the Hon. Edward Strutt, C.H. Their Report was issued on 27th May, 1921, and appears in the Report of the Royal Commission issued in 1922.

The Departmental Committee on the Increase of Rent and Mortgage Interest (Restrictions) Act. — Sir Theodore Chambers, K.B.E. Evidence was given

before this Committee by Mr. C. Gerald Eve and Mr. P. M. Ashbridge on behalf of The Institution.

The Departmental Committee on Agricultural Credit. —Sir Theodore Chambers, K.B.E., was appointed Chairman.

Committee of the Valuation Service of the Reparation Commission for the purpose of Valuing the Ceded Properties of Austria-Hungary and Bulgaria.— Mr. William Townend appointed British Representative. On the retirement of Mr. Townend Mr. Harriss Firth was appointed.

Committee on the Valuation for Rating of Amalgamated Railways.—Mr. A. J. Brickwell, C.B.E.

Prices of Building Materials Committee.—Sir Theodore Chambers, K.B.E., and Mr. J. Walker Smith.

Committee to consider the future of the Royal Arsenal, Woolwich.—Sir Howard Frank, Bart., K.C.B.

Enquiry into Financial Questions at issue between the Imperial Government and the Government of Malta.—Sir Edgar Harper.

Rural Industries Bureau.—The Hon. Edward Strutt, C.H., Trustee.

Tribunal of Investigation into the Condition of Agriculture.—Mr. C. S. Orwin. Agricultural Assessor. —The Secretary of The Institution gave evidence before the Tribunal.

British Empire Exhibition, Forestry Committee. — Mr. J. A. Rutherford.

National Farmers' Union. — Mr. Harry German, Chairman.

Commission for determining Compensation for Injury to Persons and Property in Irish Free State.— Mr. C. J. Howell Thomas, appointed by the British Government.

The Benevolent Fund has benefited by a further generous donation from Mr. Thomas Dinwiddy, who has presented a second sum of £1,000 in 5 per cent. War Loan. This will enable a further annuity of £50 per annum to be granted. It will be known as "The Conrad Dinwiddy Annuity" in memory of his son, the late Secretary of the Junior Meetings, who lost his life in the war.

ADDENDUM.

Notes from the Reports of the Examiners.

Many examiners comment upon the carelessness of candidates in reading the questions, and their failure to apply themselves to the actual question asked. The writing and spelling, and the ability of candidates to express themselves in a clear, orderly and concise manner are also criticised. Special attention should be given to mastering these faults, as, not only the examination, but the future professional work of the candidate will be affected thereby.

As on many previous occasions, examiners refer to the failure of candidates to apply their theoretical knowledge to practical questions set in the papers. Where purely text-book questions are asked the answers as a rule are well given, but in many cases the candidate appears to lack the practical experience which would enable him to adapt his theory to practice. As most candidates are engaged in offices, they should take every opportunity which may present itself of overcoming this difficulty by discussing with more experienced persons points in which their theoretical training touches upon their practical work.

Sub-Division I.

Agricultural Botany.—A knowledge of the grasses was the weakest feature.

Agricultural Chemistry.—The business side was badly treated. Candidates could not state what guarantees they should require in purchasing certain fertilisers and feeding stuffs. The composition of foods required for different classes of animals was not understood.

Agricultural Law.—Lack of knowledge in the law relating to the dealing in land for agricultural and allotment purposes by public bodies.

Report.—A failure to recognise that property let on lease might require to be somewhat differently valued to that let on relatively short tenancies.

Farm Buildings.—The answers to questions seemed to indicate too much of the text-book knowledge, and insufficient experience with the practical procedure of the construction and alteration of farm buildings.

Sub-Division II.

Valuations.—The Intermediate candidates still fail to grasp the uses to which the various tables should be put. The Final candidates showed a better grasp of the subject than those of last year.

Building Estates.—Few candidates show an adequate knowledge as to the requirements of sewers in the way of size, depth, and the location and details of manholes, &c. Too narrow frontages for modern methods of development were frequently shown. Many candidates were ignorant of transactions in secured ground rents and the creation of second (or leasehold) ground rents. In view of town planning schemes they should endeavour to realise more clearly the effect, both beneficial and otherwise, which may be produced on building estates by "zoning," and by arterial roads which by line or level make awkward severances.

Fixtures, Dilapidations, and Easements.—Many candidates went wrong on the elements of the subject and did not know the landlord's liability to repair in the absence of express contract. Others failed in Question 4 owing to a misreading of *Lister* v. *Lane*. Another general mistake was made in Question 9 (*b*), which merely involved a knowledge of the definition of an agricultural holding.

Vendors and Purchasers.—Want of preparation shown as to doctrine of part performance and its connection with the Statute of Frauds, and the right of a purchaser to rescind the contract after conveyance or obtain compensation for errors of description.

Sub-Division III.

Quantities: Intermediate.—Lack of method and absence of order in taking off, with consequent omission of important items. Insufficient acquaintance with proper methods of abstracting was shown. The standard method of measurement of building work should be studied.

Final.—Candidates showed want of preparation in the analysis of prices and in sanitary science and construction. Many took no notice of the figured discussions, and had no idea how to set up for themselves differences in levels of foundations.

Constructive and Working Drawings: Intermediate.—Want of preparation shown chiefly in carpentry and joinery-work. Draughtsmanship generally poor.

Final.—The standard of drawing generally exhibited was not sufficiently high for a typical subject.

Building Materials.—Questions on the composition of mortars (which to a certain extent call for knowledge obtained from sources other than text-books) show a general lack of training.

Sub-Division IV.

Advanced Surface and Mine Surveying.—Lack of knowledge how to determine the direction and rate of dip of the seam, and also the amount and direction of throw of a fault. The limitation of the magnetic needle for long important surveys, and the precautions required when it is adopted, were not properly appreciated.

Report.—A good answer to the question given called for a fair general knowledge of the manufacture of iron and steel, as well as of the working of coal and the manufacture of coke. The costs of production were intended to form a part of the problem, epecially with regard to the working of coal. This aspect has only been dealt with in a very general way.

General Subjects.

SURVEYING AND LEVELLING.

Levelling.—The method of "carrying forward" to the next page where the last sight booked on a page is an intermediate was not understood by most candidates. The majority confused the closing error of the levels in the field with an error in the arithmetical check on the reduction on the levels. There was confusion between the datum line assumed for convenience in plotting and the datum (Ordnance) of the levels. B.M.'s, in many cases, were plotted on the section.

LAYING DOWN FRAMEWORK OF SURVEY LINES ON A PLAN.

Chain lines were often shown running through houses &c. In several cases there were too many small triangles built up, one upon the other.

COMPUTATION OF AREAS.

Several candidates computed the number of square inches of land where the number of square inches of paper on the plan was asked for. Many seemed to be unaware of the fact that the area of a triangle can be obtained by multiplying the perpendicular height by the base and then dividing by two.

PLOTTING A CHAIN SURVEY.

In a large number of cases great carelessness was shown in plotting the main survey lines, the plans drawn being quite worthless.

FORMULA FOR SOLVING A TRIANGLE, GIVEN TWO SIDES AND THE INCLUDED ANGLE.

Most of the candidates gave in error the formula that would be used if two angles and one side were given.

TRAVERSE SURVEYING.

Very few candidates gave any rule for checking the accuracy of included angles or bearings, and in no case was any method of distributing an "error of closure" referred to.

Mensuration.—Very poor, especially as more than half the questions dealt with simple properties of the circle.

The majority of the candidates neglected to use logarithmic tables.

In a large number of cases tabulation was bad, and workings very carelessly executed.

In many instances cubic feet were converted into cubic yards by dividing by nine. Several candidates applied the formula for the volume of a cone where that for the lateral surface of a cone was required.

Earthwork slopes have not been studied carefully. More attention should be paid to the transposition of formula.

Road-making.—The examiner is of opinion that candidates do not take this subject seriously or acquaint themselves with modern practice. The knowledge shown with regard to prices was deficient, those quoted showing differences of several hundred per cent.

Imperial Taxation. — Few candidates had properly mastered the practical rules of assessment of property under Schedules A and B. Time was wasted in setting out lengthy schedules of the rates of estate duty, graduation of super tax, &c., which were not asked for.

1922. BALANCE SHEET,

ASSETS.—General Account.	£ s. d.	£ s. d.
Cash at Bankers and in hands of Secretary :—		
Current Account (including £75 Petty Cash) ...	976 15 6	
Deposit Account...	1,500 0 0	
		2,476 15 6
£4,156 15 7 Conversion Loan 3½ % at 75	3,117 11 8	
3,399 4 4 New South Wales 3 % Inscribed Stock at 78	2,651 7 9	
1,811 1 11 New South Wales 4 % Inscribed Stock at 84	1,521 6 5	
1,240 3 1 Metropolitan Water Board 3 % B Stock at 65	806 2 0	
3,314 18 7 India 3 % Stock at 55	1,823 4 3	
		9,919 12 1
The Leasehold Premises (999 years from 1893) No. 11, Great George Street, S.W., at cost		20,230 19 8
Furniture		1,166 5 5
Library, Forestry, and Geological Account.		
Cash at Bankers on Current Account	623 14 7	
£3,355 12 8 Conversion Loan 3½ % at 75	2,516 14 6	
401 16 9 West Australian Government 4 % Inscribed Stock at 84	337 10 10	
Library, Forestry, and Geological Collection	2,536 4 10	
		6,014 4 9
Prize Endowment Account.		
Cash at Bankers on Current Account	0 14 9	
£503 1 11 India 3 % Stock at 55	276 14 1	
278 0 0 Midland Railway 2½ % Debenture Stock at 52	144 11 2	
254 0 0 North British Railway 4 % No. 1 Preference Stock at 79½	201 18 7	
1,316 10 3 Conversion 3½ % Loan at 75	987 7 8	
440 10 8 India 3½ % Stock at 63	277 10 9	
500 0 0 Courage & Co. 3½ % B Debenture Stock at 58½	292 10 0	
		2,181 7 0
Prize Endowment Income Account.		
Cash at Bankers on Current Account		243 12 7
Scholarship Account.		
£3,845 3 5 Conversion Loan 3½ % at 75	2,883 17 7	
1,988 1 7 Metropolitan Water Board 3 % B Stock at 65	1,292 5 0	
2,324 14 0 New Zealand 4 % Inscribed Stock (1943-63) at 87	2,022 9 10	
1,813 3 0 Queensland 4 % Inscribed Stock (1940-50) at 83	1,504 18 3	
1,600 0 0 Canadian Pacific Railway 4 % Debenture Stock at 79½	1,272 0 0	
		8,975 10 8
Staff Superannuation Fund.		
603 2 9 5 % War Stock Inscribed at 100 ...		603 2 9
Guarantees to Public Trustee.		
Cash at Bankers		3 9 9
Amounts due, but not received at date, viz.:—		
Subscriptions	1,317 15 0	
Hire of Rooms	105 2 6	
Rent of Offices (Tribunal of Appeal Official Arbitrator)	36 10 0	
Rent of No. 11, Great George Street	225 0 0	
		1,684 7 6
		£53,499 7 8

31ST DECEMBER, 1922.

LIABILITIES.	£	s.	d.	£	s.	d.	1922.
Accumulations Account				32,771	3	11	
Library, Forestry, and Geological Account				6,014	4	9	
"Prize Endowment" Capital Account				2,181	7	0	
"Prize Endowment" Income Account				243	12	7	
Scholarship Account—General	7,703	10	8				
" " "Penfold"	1,272	0	0				
				8,975	10	8	
Public Trustee Guarantee				3	9	9	
Staff Superannuation Fund				603	2	9	
Sundry Creditors, Due to				2,706	16	3	

We report that with the assistance of the Chartered Accountant we have examined the foregoing Accounts, and have obtained all the information and explanations that we required; and in our opinion such Accounts are correct. The foregoing Balance Sheet is properly drawn up so as to exhibit the true and correct state of The Institution according to the best of our information and the explanations given to us and as shown by the books of The Institution.

H. C. NEWMARCH,
H. STEWART LOGSDON,
Auditors.

We have examined the receipts and payments affecting the Accounts for the year ended December 31st, 1922, and find the same in good order and vouched. We have also examined the Deeds and Securities, and certify that they were in possession and safe custody as on 31st December, 1922.

TANSLEY WITT & CO.

5, Chancery Lane, London, W.C. 2.
April, 1922.

£53,499 7 8

RECEIPTS. FOR THE YEAR ENDED

1922.	INCOME ACCOUNT :—	£ s. d.	£ s. d.	£ s. d.
Dec. 31st.	To 2,269 Fellows' Subscriptions at £3 3*s.*	7,147 7 0		
	„ 4 Fellows' Subscriptions, half Subscription List at £1 11*s.* 6*d.* ...	6 6 0		
	„ 69 Fellows' Subscriptions, Arrears at £3 3*s.*	217 7 0		
	„ 2 Fellows' Subscriptions in advance for 1923 at £3 3*s.*	6 6 0		
	„ 50½ Fellows' Subscriptions in advance for 1923 at £4 4*s.*	212 2 0		
	„ 13 Fellows' Subscriptions, reinstated, at £3 3*s.*	40 19 0		
	„ 88 Differences of Subscription on Transfer at £1 1*s.*	92 8 0		
			7,722 15 0	
	„ 2,223½ Professional Associates' Subscriptions at £2 2*s.*	4,669 7 0		
	„ 161½ Professional Associates' Subscriptions arrears at £2 2*s.* ...	339 3 0		
	„ 172 Professional Associates' Subscriptions in advance for 1923 at £2 2*s.*	361 4 0		
	„ 28 Professional Associates' Subscriptions, reinstated at £2 2*s.* ...	58 16 0		
			5,428 10 0	
	„ 204 Students' Subscriptions at £1 1*s.*	214 4 0		
	„ 36 Students' Subscriptions in advance for 1923 at £1 1*s.*	37 16 0		
			252 0 0	
	„ 57 Probationers' Fees at £1 1*s.* ...	59 17 0		
	„ 119 Probationers' Fees, in advance for 1923, at £1 1*s.*	124 19 0		
			184 16 0	
	„ Hire of Rooms		356 9 0	
	„ Dividends and Interest		459 7 0	
	„ Rent of Leasehold Property, No. 11, Great George Street, S.W. 1	630 0 0		
	Less Ground Rent on the same ...	189 15 0		
			440 5 0	
	SCHOLARSHIPS ACCOUNT :—			
	To Dividends...		218 19 5	
				15,063 1 5
	EXAMINATIONS ACCOUNT :—			
	To Candidates' Examination Fees ...	2,862 9 0		
	„ Sale of Syllabus	126 10 9		
			2,988 19 9	
	Less Examiners' Fees, Hire of Hall, &c.		1,676 9 7	
				1,312 10 2
	CAPITAL ACCOUNT :—			
	To 15 Fellows' Entrance Fees at £7 7*s.* ...	110 5 0		
	„ 8 Fellows' Entrance Fees at £5 5*s.* ...	42 0 0		
	„ 124 Fellows' Differences of Entrance Fees at £2 2*s.*	260 8 0		
			412 13 0	
	„ 144 Professional Associates' Entrance Fees at £4 4*s.*	604 16 0		
	„ 47 do. do. at £3 3*s.* ...	148 1 0		
	„ 3 Colonial Fellows' do. at £5 5*s.* ...	15 15 0		
			768 12 0	
	" Quantity Surveyors' Association on amalgamation			1,181 5 0
				324 6 7
1922. Jan. 1st	„ Cash at Bankers on Deposit Account ...		2,000 0 0	
	„ „ Current Account ...		331 12 4	
	„ Petty Cash in hands of Secretary ...		75 0 0	
				2,406 12 4
				£20,287 15 6

31st December, 1922. PAYMENTS.

		£	s.	d.	£	s.	d.	£	s.	d.
22.	By *Journal:* Reporting and Publication...	2,864	3	9						
31st.	*Less* Amount received from Advertisements	737	5	0						
					2,126	18	9			
	„ Salaries				3,572	10	0			
	„ Wages and Pension				431	0	6			
	„ Postage and Receipt Stamps, General...	580	11	9						
	„ „ „ „ *Journal* ...	526	15	9						
					1,107	7	6			
	„ Rates, Taxes, Corporation Duty, and Insurance	3,092	0	0						
	„ Staff Endowment Insurance	248	17	4						
					3,340	17	4			
	„ Fuel, Light, and Water				478	5	2			
	„ Ground Rent, *less* Tax	603	17	6						
	Less Rent received from Tribunal of Appeal and Official Arbitrator	157	10	0						
					446	7	6			
	„ Stationery and Account Books ...				137	17	10			
	„ Repairs				36	5	3			
	„ Printing and Lithography				1,199	8	6			
	„ Donations for Professional Objects ...				89	1	0			
	„ Parliamentary Papers and Periodicals...				56	8	5			
	„ London and County Branches and Junior Meetings				1,896	1	4			
	„ Country Meeting—Shrewsbury ...				186	19	5			
	„ Law Charges				37	5	6			
	„ Scholarship Account :— Terms, Fees, &c....				379	6	10			
	„ College of Estate Management ...				652	16	8			
	„ Housekeeper's Account, Sundries and Deficit on Annual Dinner ...				848	13	10			
	„ Staff Superanuation Fund :— Purchase of 5% War Stock ...				325	0	0			
								17,348	11	4
	CAPITAL ACCOUNT :—									
	By Supplemental Charter and By-laws ...				375	2	2			
	„ Purchase of Furniture				87	6	6			
								462	8	8
	„ Petty Cash in hands of Secretary ...				75	0	0			
	„ Cash at Bankers, Current Account ...				901	15	6			
	„ „ Deposit Account ...				1,500	0	0			
								2,476	15	6
								£20,287	15	6

"PRIZE ENDOWMENTS"

1922.	£	s.	d.
Dec. 31st. To Balance carried forward to 1923, viz. :—			
"Penfold" Gift—			
£503 1*s.* 11*d.* India 3 % Stock at 55	276	14	1
"Beadel" Bequest—			
£278 Midland Railway 2½ % Debenture Stock at 52	144	11	2
"Crawter" Bequest—			
£254 North British Railway No. 1 Preference Stock at 79½	201	18	7
"Driver" Bequest—			
£440 10*s.* 8*d.* India 3½ % Stock at 63	277	10	9
"Galsworthy" Gift—			
£500 Courage & Co. 3½ % B Debenture Stock at 58½	292	10	0
"Watney" Gift—			
£421 19*s.* 6*d.* 3½ % Conversion Loan at 75 ...	316	9	7
"Mellersh" Bequest—			
£138 9*s.* 9*d.* 3½ % Conversion Loan at 75 ...	103	17	4
"Wainwright" Bequest—			
£756 1*s.* 3½ % Conversion Loan at 75	567	0	9
Cash at Bank		14	9
	£2,181	7	0

"PRIZE ENDOWMENTS"

1922.	£	s.	d.	£	s.	d.
Dec. 31st. To Paid for "Beadel Prize"	4	19	6			
„ Paid for "Crawter Prize"	7	0	6			
„ Paid for "Driver Prize"	10	1	6			
„ Paid for "Galsworthy Prize"	2	15	0			
„ Paid for "Mellersh Prize"	4	0	0			
„ Paid for "Wainwright Prize"	17	18	6			
„ Paid for "Penfold" Gold and Silver Medals	22	15	0			
				69	10	0
„ Balance carried forward to 1923... ...				243	12	7
				£313	2	7

CAPITAL ACCOUNT.

1922.		£	*s.*	*d.*
Jan. 1st.	By Balance brought forward from 1921 (including 14*s.* 9*d.* cash balance)	1,882	5	8
Dec. 31st.	„ Increase on Annual Revaluation of Investments ...	299	1	4
		£2,181	7	0

INCOME ACCOUNT.

1922.		£	*s.*	*d.*	£	*s.*	*d.*
Jan. 1st.	By Balance brought forward from 1921 ...				160	15	2
Dec. 31st.	„ Dividends for year to date (*less* tax) and Income Tax returned to April, 1922 :—						
	"Beadel" Bequest	11	4	1			
	"Crawter" Bequest	19	18	8			
	"Driver" Bequest	25	0	2			
	"Galsworthy" Gift	28	8	9			
	"Watney" Gift	15	3	1			
	"Mellersh" Bequest	4	19	4			
	"Wainwright" Bequest	23	3	0			
	"Penfold" Gift	24	10	4			
					152	7	5
					£313	2	7

LIBRARY, FORESTRY, AND

1922.		£ s. d.	£ s. d.
Dec. 31st.	To Purchase of Books, Maps, &c.:—		
	General Library	57 3 8	
	Loan Library	18 3 0	
			75 6 8
	„ Annual Subscriptions:—		
	London Society	1 1 0	
	London Topographical Society ...	1 1 0	
	British Fire Prevention Committee ...	2 2 0	
			4 4 0
	„ Honorarium to Curator		52 10 0
	„ Printing and Stationery		9 1 4
	„ Binding		50 7 3
	„ Insurance		7 9 2
	„ Grants to County Branch Libraries ...		55 0 0
	„ Renovating Pictures		40 19 0
	„ Brochure of Members on Active Service...		63 0 0
	„ Sundry Disbursements		33 13 4
	„ Depreciation...		198 13 10
	„ Balance carried forward to 1923:—		
	Cash at Bank	623 14 7	
	£3,355 12*s.* 8*d.* 3½% Conversion Loan at 75	2,516 14 6	
	£401 16*s.* 9*d.* West Australian Government 4% Inscribed Stock at 84 ...	337 10 10	
	Value of Books, Forestry, and Geological Collection	2,536 4 10	
			6,014 4 9
			£6,604 9 4

CAPITAL ACCUMULATIONS

1922.		£ s. d.
Dec. 31st.	To Depreciation of Furniture	56 15 9
	„ Increase in Liabilities	681 6 1
	„ Transfer of £6,578 18*s.* 11*d.* Conversion Stock to College of Estate Management	5,000 0 0
	„ Deficit from Receipts and Payments (Income) Account	2,285 9 11
	„ Balance carried forward to 1923	32,771 3 11
		£40,794 15 8

GEOLOGICAL ACCOUNT.

1922.		£	s.	d.
Jan. 1st.	By Balance brought forward from 1921	5,828	10	5
Dec. 31st.	„ Increased Values at this date:—			
	Books purchased	75	6	8
	„ presented	10	7	6
	„ Dividends	24	17	3
	„ Donations	486	0	6
	„ Increase on Annual Revaluation of Investments ...	179	7	0
		£6,604	9	4

ACCOUNT.

1922.		£	s.	d.
Dec. 31st.	By Balance brought forward from 1921	36,907	8	0
	„ Balance brought from Examinations Account ...	1,312	10	2
	„ Balance brought from Receipts and Payments (Capital Account)	1,130	9	5
	„ Increase in Outstanding Accounts	86	15	0
	„ Increase on Annual Revaluation of Investments ...	1,357	13	1
		£40,794	15	8

LIBRARY.

DONATIONS OF BOOKS, MAPS, &c.,

1st June, 1922, *to* 31*st May*, 1923.

DONOR.	TITLE OF WORK.
Accountant, Editor of the...	"The Accountant," 1922-1923.
Agricultural Gazette, Editor of the	"The Agricultural Gazette," 1922-1923.
Agriculture, Ministry of ...	"Journal," 1922-1923. International Institute of Agriculture :— "Bulletins of Agricultural Intelligence," 1922-1923. "Bulletins of Economic and Social Intelligence," 1922-1923.
Allen, H. Collin	Tildesley, C. E., "Factors for Interchanging Rectangular and Geographic Co-ordinates between Parallels, 48° and 60°."
American Institute of Mining Engineers	"Mining and Metallurgy," 1922-1923.
Architect, Editor of the ...	"The Architect," 1922-1923.
Architects' and Surveyors' Assistants Professional Union	"Journal," 1922-1923.
Architects' Journal, Editor of the	"The Architect's Journal," 1922-1923.
Auctioneers' and Estate Agents' Institute	"Journal," 1922-1923.
Bath and West and Southern Counties Society	"Journal," 1923.
Board of Trade Journal, Editor of the	"The Board of Trade Journal," 1922-1923.
Bombay Director of Development	"Report of the Working of the Development Directorate of Bombay for the year ended 31st March, 1922."
British Engineering Standards' Committee	"Various Standard Specifications."
British Engineers' Association	"Steel Structural Section," Quarterly Journal, 1922-1923.
British Farmer, Editor of the	"The British Farmer," 1922-1923.

Donor.	Title of Work.
British Fire Prevention Committee	"Air-raid Damage in London."
Builder, Editor of the ...	"The Builder," 1922-1923.
Building News, Editor of the	"The Building News," 1922-1923.
Ceylon :—Director of Public Works	Bingham, P. G., "History of Public Works Department," Vol. II. Department of Commerce :—"Standard State Zoning Enabling Act."
Central and Associated Chambers of Agriculture	"Journal," 1922-1923.
Central Association of Agricultural and Tenant-Right Valuers	"Twelfth Annual Report," 1921-1922.
Central Landowners' Association	"Quarterly Circular," 1922-1923.
Chapel, E. L.	Chapel, E. L., "Management of House Property," Vol. I.
Chartered Institute of Patent Agents	"Transactions," Vol. 40, 1922-1923.
Civil Engineering, Editor of	"Civil Engineering," 1922-1923.
Clancey, J. C.	Clancey, J. C., "Simplified Stellar Maps and Aspects of the Night Sky." Clancey, J. C., "Astronomical Tables."
Coleman, Colonel T. E. ...	Coleman, T. E., "Schedule of Prices for Works and Repairs to Buildings, &c., of the War Department," 1922.
Concrete, Editor of ...	"Concrete," 1922-1923.
Contract Journal, Editor of the	"The Contract Journal," 1922-1923.
Corble, A. H.	Godman, E., "Medieval Architecture in Essex."
Corporation of Insurance Brokers	"Journal," 1922-1923.
Country Gentlemen's Association	"Estate Magazine," 1922-1923.
Courthope, Lt.-Col. G. L., M.C., M.P.	"Agriculture in Parliament."
Empire Forestry Association	"Journal," 1922-1923.
Empire Production and Export, Editor of	"Empire Production and Export," 1922-1923.
Engineer, Editor of the ...	"The Engineer," 1922-1923.
Engineering Review, Editor of the	"The Engineering Review," 1922-1923.
Estates Gazette, Editor of the	"The Estates Gazette," 1922-1923.
Farmers' Club	"Journal," 1922-1923.

Donor.	Title of Work.
Field, Editor of the ...	"The Field," 1922-1923.
Geologists' Association ...	"Proceedings," 1922-1923.
Highland and Agricultural Society of Scotland	"Transactions," Vol. 34, 1922.
Illinois University	"Bulletins."
Illuminating Engineer, Editor of the	"The Illuminating Engineer," 1922-1923.
Illustrated Official Journal (Patents), Editor of the	"The Illustrated Official Journal (Patents)," 1922-1923.
Institute of Industrial Administration	"Journal," 1922-1923.
Institution of Civil Engineers	"Proceedings," 1922-1923.
Institution of Civil Engineers of Ireland	"Transactions," Vol. 46, 1922.
Institution of Electrical Engineers	"Journal," 1922-1923.
Institution of Mechanical Engineers	"Proceedings," 1922-1923.
Institution of Mining Engineers	"Transactions," 1922-1923.
Institution of Municipal and County Engineers	"Journal," 1922-1923.
Institution of Professional Civil Servants	"State Technology," 1922-1923.
Ireland—Department of Agricultural and Technical Instruction	"Journal," 1922-1923.
Johnson, B. Marr	Morton, J. C., "The Prince Consort's Farms."
Kelly, S.	Abercrombie, P., S. Kelly & A. Kelly, "Dublin of the Future."
Labour, Ministry of ...	"Labour Gazette," 1922-1923.
Land Agents' Record, Editor of the	"The Land Agents' Record," 1922-1923.
Land Agents' Society ...	"Journal," 1922-1923.
Land and Liberty, Editor of	"Land and Liberty," 1922-1923."
Land Union	"Journal," 1922-1923.
Law Journal, Editor of the	"The Law Journal," 1922-1923.
Liverpool Engineering Society	"Transactions," Vol. 42, 1922.
Local Government Journal, Editor of the	"The Local Government Journal." 1922-1923.
London and Middlesex Archæological Society	"Transactions," 1921.

Donor.	Title of Work.
London Society	"Journal,"1921-1922.
Machine Woodworker, Editor of the	"The Machine Woodworker," 1922-1923.
Master Builders' Association	"Journal," 1922-1923.
Mining World, Editor of the	"The Mining World," 1922-1923.
Mirams, A. E.	Mirams, A. E., "Hints to acquiring Officers, &c., on Survey and Valuation of Real Property ; with a sample Form of Valuation" (Bombay), 1922.
Modern Transport, Editor of	"Modern Transport," 1922-1223.
Municipal Engineering, Editor of	"Municipal Engineering," 1922-1923.
New South Wales, Government of	"Official Year-Book," 1921.
New Zealand :—Department of Land Surveys	"Annual Report," 1922. "Proportions and Spacings of Roman Letters." "Directions for Testing Traverse Bearings." "Measurement of Distances with long Steel Tapes." "Use of the Barometer for the Determination of Height."
New Zealand Institute of Surveyors	"Journal," 1922.
Pelley, H. A.	"A Detailed Prospectus of the Auction Mart, 1808.
Property-Owners' Protection Association	"The Property-Owners' Journal," 1922-1923.
Quarry, Editor of the	"The Quarry," 1922-1923.
Roads and Road Construction, Editor of	"Roads and Road Construction," 1922-1923.
Royal Agricultural Society of England	"Journal," 1922.
Royal Dublin Society ...	"Scientific Proceedings," 1922-1923.
Royal Engineers' Institute...	"Journal," 1922-1923.
Royal English Arboricultural Society	"Quarterly Journal of Forestry," 1922-1923.
Royal Institute of British Architects	"Journal," 1922-1923.
Royal Sanitary Institute ...	"Journal," 1922-1923.
Royal Scottish Arboricultural Society	"Transactions," 1922-1923.
Royal Statistical Society ...	"Journal," 1922-1923.

Donor.	Title of Work.
Scrimgeour, John	Scrimgeour, John, "Scottish Agriculture and Present-Day Changes in Land and Ownership."
	"The Larch Disease in Ireland."
	"A Steam Tree Feller."
Sierra Leone Government ...	"Annual Report of the Agricultural Department," 1921.
Société des Géomètres Experts de France	"Journal," 1922-1923.
Society of Architects ...	"Architecture," 1922-1923.
outh Africa :—Ministry of Agriculture	"Journal of the Department of Agriculture," 1922-1923.
	"Agricultural Experiment : its Design and Interpretation."
	"Pear Scab in the Western Provinces."
	"Investigations on Export Fruit from South Africa."
	"Arsenical Spray Experiments for the Control of Codling Moth in Pears at Elsenburg."
	"Prickly Pear, its value as Fodder for Sheep."
	"Some Transvaal Soils."
South Wales Institute of Engineers	"Proceedings," 1922-1923.
Stock Exchange Gazette, Editor of the	"The Stock Exchange Gazette," 1922-1923.
Stone Trades Journal, Editor of the	"The Stone Trades Journal," 1922-1923.
Surveyor, Editor of the ...	"The Surveyor," 1922-1923.
Timber News, Editor of	"Timber News," 1922-1923.
Uganda Protectorate, Director of Surveys of	"Report of the Land and Survey Department," 1922.
	"Index to Maps."
United States:—Department of Commerce, Washington	"Recommended Minimum Requirements for Small Dwelling Construction."
	"Zoning Progress in the United States."
	"A Zoning Primer."
	"A Standard Zoning Enabling Act."
	"Zoning : A Selected Bibliography."
Water, Editor of	"Water," 1922-1923.

DONATIONS TO THE LIBRARY FUND.

	£	*s.*	*d.*
Adair, W.	2	2	0
Allcock, A. J.	2	2	0
Andrews, W. C. ...	2	2	0
Aynsley, J. T. O. ...	2	2	0
Ayling, J.	2	2	0
Bailey, C. H.	2	2	0
Baker, S. C.	2	2	0
Barratt, R. C.	2	2	0
Bell, E. E.	2	2	0
Bell, H. J.	2	2	0
Beilby, W. B.	2	2	0
Bennett, R. H. W. ...	2	2	0
Berry, C. E.	2	2	0
Besant, H. S.	2	2	0
Bocking, T. G.	2	2	0
Bowen, A.	2	2	0
Bowles, W.	2	2	0
Brackett, E. J. N. ...	2	2	0
Brayshaw, H. H. ...	2	2	0
Brown, E. E. M. ...	2	2	0
Brown, E. W. W. ...	2	2	0
Brown, F.	2	2	0
Burnett, D.	2	2	0
Buttar, A.	2	2	0
Callow, G. D.	2	2	0
Carpenter, G. T. ...	2	2	0
Carr, A. S. C.	2	2	0
Carter, G. R.	2	2	0
Causley, S.	2	2	0
Cherry, A. E.	2	2	0
Chesterman, A. de M. ...	2	2	0
Clemo, J.	2	2	0
Collins, O. H.	2	2	0
Conway, E. J.	2	2	0
Cossham, P. R.	2	2	0
Cottrall, V. W.	4	4	0
Cox, A. S.	2	2	0
Cox, R. N. B.	2	2	0
Crossland, H. E. ...	2	2	0
Cubitt, E. J.	2	2	0
Cundy, T. J.	2	2	0
Dartnall, E. V.	2	2	0
Darvill, D. H.	2	2	0
Davis, A. S.	2	2	0
Dawson, H. P.	2	2	0
Day, J. H.	2	2	0
Dodge, H. W.	2	2	0
Duns, R. H.	2	2	0
Edwards, D. E.	2	2	0
Edwards, G. F.	2	2	0
Eggar, J. G.	2	2	0
Elliott, C. P.	2	2	0
Evans, Simon	2	2	0
Evershed, W. L. ...	2	2	0
Ewbank, A. L. J. ...	2	2	0
Fairclough, V.	2	2	0
Fagg, W. C.	2	2	0
Featherstone, H. M. ...	2	2	0
Fenton, F.	2	2	0
Fifield, C.	2	2	0
Fifield, C. W. S. ...	2	2	0
Fifield, H. E.	2	2	0
Foot, W. G.	2	2	0
Forsaith, F. L.	2	2	0
Fox, H. L.	2	2	0
Gadd, J. E.	2	2	0
Gardner, C.	2	2	0
Garner, A. J.	2	2	0
Gearing, J. P.	2	2	0
Gibson, E. S.	2	2	0
Gillett, H. E.	2	2	0
Goodland, H. E. ...	2	2	0
Gosling, J. H. C. ...	2	2	0
Gowen, S. C. J.	2	2	0
Green, G. E.	2	2	0
Green, H.	2	2	0
Green, J. A.	2	2	0
Griffiths, S. P.	2	2	0
Hagon, L.	2	2	0
Hallam, H. C.	2	2	0
Harding, C. R.	2	2	0
Hardman, E. A. ...	2	2	0
Harker, A.	2	2	0
Harris, F. N. K. C. ...	2	2	0
Harris, W. M.	2	2	0
Harrison, P.	2	2	0
Hart, F. J.	2	2	0
Henderson, T.	2	2	0
Hendy, A.	2	2	0
Henshaw, L.	2	2	0
Hill, S.	2	2	0
Hill, W. A.	2	2	0
Hindmarsh, J.	2	2	0
Hobbs, R. A.	2	2	0
Hollowell, H.	2	2	0
Holmes, J.	2	2	0
Hope, J. L.	2	2	0
Howard, E. H.	2	2	0

	£	s.	d.
Hudson, A. A.	2	2	0
Hughes, T.	2	2	0
Hunt, M. L.	2	2	0
Hunt, R. W. R. ...	2	2	0
Hutson, R. A.	2	2	0
Ingram, G. E.	2	2	0
Jenkins, T. P.	2	2	0
Jones, Ellis	2	2	0
Jones, F. Elmore ...	2	2	0
Jones, H. E.	2	2	0
Joy, G. A.	2	2	0
Key, M. D.	2	2	0
Knapp, R. E.	2	2	0
Langdon, H. W. ...	2	2	0
Lawton, R. A.... ...	2	2	0
Leach, S. H.	2	2	0
Lees, G.	2	2	0
Lefeaux, R. L.	2	2	0
Lilley, J. L.	2	2	0
Lindley, J.	2	2	0
Lodge, A. F.	2	2	0
Longley, A. D.	2	2	0
Lorimer, A. A.	2	2	0
Lowden, D.	2	2	0
McCallum, G. A. ...	2	2	0
Macilwraith, T. D. ...	2	2	0
Mackenzie, F. W. ...	3	3	0
McRae, C.	2	2	0
Mann, D. S.	2	2	0
Marsland, T.	2	2	0
Marston, H. A.	2	2	0
Martin, A. G. T. ...	2	2	0
Mathews, O. L.	2	2	0
Mayhew, H. B.	2	2	0
Miles, H. E.	2	2	0
Moore, J. A.	2	2	0
Morgan, A.	2	2	0
Morgan, E. W.	2	2	0
Morgan-Walters, I. A. ...	2	2	0
Morton, J. D.	2	2	0
Nelson, W. P.	2	2	0
Neville, E. B.	2	2	0
Newbiggin, R. G. ...	2	2	0
Nixey, W. G.	2	2	0
Nott, C. A.	2	2	0
Oxborrow, L. E. ...	2	2	0
Page, J. T.	3	3	0
Pain, C. H.	2	2	0
Pasterfield, V. C. ...	2	2	0
Peard, C. J.	2	2	0
Pearse, W. P.	2	2	0
Perkins, F. K.	2	2	0
Perkins, H.	2	2	0
Pexton, F. W.	2	2	0
Pidgeon, F. A.	2	2	0
Pittam, E. C.	2	2	0
Pinkham, C. S.	2	2	0

	£	s.	d.
Poole, R....	2	2	0
Preece, E. T. O. ...	2	2	0
Price, G. R.	2	2	0
Raddall, T.	2	2	0
Ragg, F. R.	2	2	0
Ralph, E.	2	2	0
Ralph, S. M.	2	2	0
Rampton, F.	2	2	0
Rampton, P. W. ...	2	2	0
Remnant, E. A.... ...	2	2	0
Richardson, B.	2	2	0
Ricketts, R. H.	2	2	0
Roach, D. J.	2	2	0
Robertson, L. G. ...	2	2	0
Robson, G. B.	2	2	0
Rogers, E. A.	2	2	0
Rose, S. G.	2	2	0
Rowse, A.	5	5	0
Ryle, H.	2	2	0
Salmon, D. J.	2	2	0
Sanders, C. F.	2	2	0
Savill, A. C.	2	2	0
Scott, A. C.	2	2	0
Scrimgeour, J.	2	2	0
Seel, R. H.	2	2	0
Shelbourne, P. C. ...	2	2	0
Silvester, S. B.	2	2	0
Simmons, V. A. ...	2	2	0
Simpson, W. L.... ...	2	2	0
Skeet, N. J.	2	2	0
Slater, G.	2	2	0
Slipper, R. O.	2	2	0
Smith, G. W. M. ...	2	2	0
Sparks, W. H.	2	2	0
Spelman, C. F. R. ...	2	2	0
Stansfield, H. R. ...	3	3	0
Staniland, D. L. ...	2	2	0
Stark, D.	2	2	0
Stenholm, A. H. ...	2	12	6
Stevens, H. C.	2	2	0
Stevens, L.	2	2	0
Stewart, M. S.	2	2	0
Stone, G. N. S.	2	2	0
Streather, R.	2	2	0
Stringer, R.	2	2	0
Summerfield, J. W. ...	2	2	0
Taylor, C. G.	2	2	0
Taylor, G. A.	2	2	0
Taylor, S. H.	2	2	0
Thain, A. R.	2	2	0
Thompson, H. C. ...	2	2	0
Thompson, L. A. ...	2	2	0
Thurgood, L. F. ...	3	3	0
Tickle, R. G.	2	2	0
Todd, G. W. A. ...	2	2	0
Tombs, L. E.	2	2	0
Tregear, R. W.... ...	2	2	0

	£	*s.*	*d.*		£	*s.*	*d.*
Turner, A. W.	2	2	0	Wilkinson, W. H. ...	2	2	0
Walker, W. A.	2	2	0	Williams, J. P.	2	2	0
Ward, R. J.	2	2	0	Willis, T.	2	2	0
Waters, P. D. J. ...	2	2	0	Winch, C. A.	2	2	0
Watkins, H.	5	5	0	Wood, P. J.	2	2	0
Webb, H. V. C.	2	2	0	Worters, C. C.	2	2	0
Webber, N. L.	2	2	0	Wright, J.	2	2	0
Westlake, W. J. W. ...	2	2	0	Wright, J.	2	2	0
Wheeler, R. A.	2	2	0	Yates, C. W.	2	2	0
Wildman, H. R. ...	2	2	0	Yates, F. G.	2	2	0
Wilkinson, J. P. ...	2	2	0	York, N. J.	2	2	0

The amount against the name of Mr. F. W. Kuphal in last year's list should have been £2 12*s.* 6*d.*, and not £2 2*s.*

Printed by J. D. NICHOLS & SONS, Parliament Mansions, Orchard Street, Victoria Street, S.W. 1.